Deviants and Trailblazers

A HISTORY OF TRANS ACTIVISM IN BRITAIN

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‘We cannot move forward without knowing where we’ve been. Making this history accessible is an act of resistance; it empowers us to undermine anti-rights rhetoric and build a future rooted in the wisdom of our past.’

—Marty Davis, founder of Trans+ History Week

‘A hugely enjoyable, carefully crafted account and analysis of trans activism from the 1960s to today, written with meticulous scholarship, fine-grained accuracy, and perceptive comment. Morgan has produced an essential book for everyone engaged with trans issues today: an inescapable argument for social justice and a timely warning of the consequences of government neglect of human rights.’

—Zoë Playdon, author of *The Hidden Case of Ewan Forbes: The Transgender Trial that Threatened to Upend the British Establishment*

‘A one-of-a-kind, necessary map of trans history and vehicle for righteous trans anger to preserve our futures. As difficult as this moment in time is for us, there is a lot of wisdom that comes from having been here before.’

—Sabah Choudrey, author of *Supporting Trans People of Colour*

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A History of Trans Activism in Britain

Rebecca Jane Morgan

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There is nothing unnatural in Nature and nothing un-God-like in Providence, and we know little of the ways of either; but there are variations in structure and constitution which should in no way cut off unusual individuals from personal fulfilment and happiness in an enlightened society.

– Robert Allen, *But for the Grace* (1954)

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Introduction

It was Saturday, 28 June 1969. The sun had risen in the UK, but on the East Coast of the USA it was just 1.20 a.m. when plain-clothes police officers entered the Mafia-run Stonewall Inn gay bar in Greenwich Village, New York, initiating a raid that spawned a legend. Leveraging state laws that required citizens to wear at least three items of clothing considered congruent with their legal gender while in public, personnel from the First Division Public Morals Squad of Manhattan set about arresting some of the bar's clientele for cross-dressing (or 'masquerading').[1] They had done this countless times before in gay bars across the city, usually encountering little opposition, but this time their quarry refused to go quietly. While the precise order of events is blurry, it is clear enough that one person resisted arrest, then another, then another, and in short order the streets were frantic as hundreds of lesbians, gay men, bisexuals, and trans people, exasperated by decades of police harassment, faced off against armed Tactical Patrol Force officers with whatever projectiles they could find – bricks, bottles, coins, and other detritus, as well as Molotov cocktails.[2] 'My god,' thought one trans rioter, Sylvia Rivera, upon witnessing this impromptu insurgency, 'the revolution is here. The revolution is finally here!'[3] It was one of those events for which idioms involving genies and bottles (or toothpaste and tubes) were invented; when the fighting stopped after six days, things simply *could not* return to the way they had been. Thousands of people realised at that moment that it was their time to stand up and *be* the change, to challenge and overturn the systems of discrimination to which so many people were subjected because of their sexual orientation or gender identity.

Almost overnight, New York became a regional epicentre of queer activism. Many people today have heard of the Gay Liberation Front (GLF) which was founded in New York in 1969 and soon represented by largely

independent chapters around the world, including in the UK, but few are aware of the many smaller groups that emerged to serve various communities and political niches. One of these was Street Transvestite Action Revolutionaries (STAR), a pioneering mutual aid collective formed in 1970 by two trans sex workers of colour, Marsha P. Johnson and Sylvia Rivera.[4] From a rented space in the Lower East Side of Manhattan dubbed 'STAR House', they performed the 'revolutionary work' of giving a roof, resources, and comradeship to some of the poorest and most at-risk trans people in the city (at least, until they were evicted for falling behind on rent payments in 1971).[5] They also adopted a manifesto. This defined the group as one of 'the revolutionar[y] armies [that are] fighting against the system', and through that fight they hoped to advance 'the right to self-determination over the use of our bodies', to bring an end to police harassment, anti-trans discrimination in housing and employment, and the 'exploitative practices of doctors and psychiatrists who work in the field of transvestism'. They also called for legal recognition of trans people's identities: 'Transvestites who live as members of the opposite gender should be able to obtain identification of the opposite gender.'[6] Compromising with this evil system was not an option. A leaflet distributed by STAR (as 'Street Transvestites for Gay Power') reflected their radical impulses by arguing that 'Pig Power' (i.e., police power) could not coexist with 'Gay Power'; one of the two would have to give way. Others might choose to flee the battle, the leaflet said, 'We intend to fight for our rights [until] we get them.'[7] STAR had several associate groups around the United States and reportedly had a branch in the UK, but little to no trace of its existence remains.[8]

Why begin a book on trans activism in the UK with a story about something that happened in the United States? The answer, briefly, is that Stonewall has acquired a reputation as *the* quintessential queer folk legend. It is exciting; it is heroic; it is an epic tale of audacious resistance, defiant solidarity, and virtuous (retaliatory) violence, providing a blueprint for future struggles against a fearsome Goliath. The lessons and the consequences of Stonewall, so the tale goes, transcend national borders, and indeed the faces of Stonewall rioters can be seen adorning placards at

LGBTQI+ Pride rallies in Britain, North America, and beyond. Given the aura and reverence that surrounds it, Stonewall is a window into how many present-day activists see themselves, and into how they believe their work *now* relates to what others did *then*. The riot's emblematic status is manifest, for example, in the enthusiasm with which members of the different communities under the LGBTQI+ umbrella, including trans people, stake a claim to a piece of its legacy. Some of the riot's most compelling trans characters are venerated as glory-sodden queer ancestors by pithy eulogisms like 'Marsha P. Johnson threw the first brick', a phrase that emphasises the presence and bravery of trans people at this critical juncture in history, and reminds future generations of how the queer liberation movement 'really' got off the ground – not through middle-class procedural activism or the passage of a law, but with a raid, a drag queen, and a brick. We could spend several pages litigating Marsha's role in the riot – some of her later statements, and the statements of others, strongly imply that she was involved in the fighting from the very beginning, whereas she seemingly implied in 1989 that she only came over to the Inn *after* hearing that the place was 'on fire'. She was always notoriously unstructured and forgetful in her retellings, so it is hard to know how much to read into her words.[9] I tend to agree with Tourmaline's argument in *Marsha: The Joy and Defiance of Marsha P. Johnson* (2025) that trying to force Stonewall into an orderly chronology is unhelpful when the whole point of a riot is that it is not an orderly procession but an explosion of chaotic emotion. The important thing is that Marsha and other trans people of colour did much of the organising and bore much of the brunt of the police brutality; whether they did so 'first' is a distraction.[10]

More broadly, Stonewall has gone down as the very genesis of gay and trans rights as a phenomenon; historian David Carter, for one, proclaims that gay equality:

> is now a worldwide movement that has won many significant victories, most of them flowing from those six days in the summer of 1969 when

> gay people found the courage to stand up for themselves on the streets of Greenwich Village.[11]

The riot is lodged so firmly in the Western LGBTQI+ psyche that a history of queer activism, even one with its focus thousands of miles from New York, feels incomplete without Stonewall being acknowledged at least in passing. And yet, for the purposes of this book, Stonewall is equal parts irrelevant and unavoidable, by turns the most logical and illogical place to start: logical because so many readers will *expect* Stonewall to play a major role in the story to come; illogical because, for the most part, it does not. And that makes it a uniquely useful conversation-starter.

Public memory *never* preserves a perfect record of 'what happened' in history. Facts merge, warp, and evaporate to accommodate whatever overarching narrative emerges as authoritative, subordinating the details of any singular event to the needs of that mythic 'truth'. After the Second World War, many British people remembered listening to their radios as Winston Churchill delivered his famous speech vowing that Britain would fight the Nazi war machine on the beaches and in the streets, and would never surrender – a great boon to morale. The trouble is that this speech was delivered in the House of Commons, which at that time was neither electronically recorded nor broadcast, and was only read out in snippets by BBC announcers until Churchill finally recorded it in his own voice in 1949. Even if it had been cast on the airwaves during the war, many people were already questioning Churchill's leadership and were liable to interpret his speeches as verbose manipulations of the facts, but the myth of that one pivotal speech rousing a nation from its stupor remains sacrosanct – partly, of course, because it fits the preferred British war narrative of plucky national unity in the face of nigh-unstoppable evil.[12] The point is not that the 'facts' of history are more important than the felt memory of that history. An 'incorrect' memory, widely shared, exerts its own influence and helps to shape future events, and it therefore becomes, in a sense, *real*. Some readers might know this as the Mandela Effect, which refers to the shared mistaken memory that the South African civil rights leader died in

prison in the 1980s. Nor am I laying the groundwork to suggest that queer history is in some way more artificial – *less* 'real' – than other parts of history. Rather, the point I am making is that what 'actually happened' in the past and what we think we 'know' about history are often only tenuously linked, and that we must always be aware of that disconnect.

Since the very beginning, the story of Stonewall was told and retold in different ways to fit various historical meta-narratives. Some authors repackaged it for general consumption as a mostly white gay affair in which otherwise 'normal' people were victimised by wrong-headed systems, and in framing it this way they ensured, consciously or not, that the event was white-washed and 'cis-washed' – that is, cleansed of its politically difficult associations with transness.[13] Meanwhile, some trans writers folded the riot into their very own flattening mythology. As Jessi Gan explains in her seminal history of the raid, there soon arose a trans-first orthodoxy according to which '*all* transgender people', with no mention given to their race, class, or occupation, 'were most oppressed and most resistant at Stonewall (and still are today)', an idea that was 'circulated and consumed [in] the service of a liberal multicultural logic of recognition'. Though sometimes put forward as the antithesis to the gay-first narrative, the trans-first narrative similarly functions by distilling history into a neat package that can be leveraged and 'sold' in the political arena, often to advance a type of activism that prioritises small-scale legal adjustments rather than addressing systemic issues like institutional racism and wealth inequality, which are far more difficult to resolve under capitalism. In this way, the material context of Stonewall – a militarised police force targeting a community that was denigrated by leading politicians, faith groups, and news outlets as dirty, debauched, and degenerate – grew ever more detached from the political objectives of some of those who invoked its name, while many who were involved in the riot itself felt increasingly that they were being both written out of the past and left behind in the present. One important facet of the event and its fallout – the leadership roles of sex workers and people of colour – was not fully acknowledged in mainstream literature until the early 1990s, and even then their needs were not

prioritised politically.[14] As Rivera told Jessi Gan: '*You* have acquired your liberation, your freedom, from that night. Myself, I've got shit, just like I had back then.'[15] Despite all its symbolic ties to 'solidarity' and its centrality in mainstream LGBTQI+ politics, Stonewall had come to represent in Rivera's mind the momentary flash of a largely unfulfilled hope. It was supposed to be the turning point past which things finally started to get better, and for some it was. Not so for others.

What we are really dealing with when we talk about Stonewall, then, is not a singular point of reference, a chronological series of 'actual' happenings passed down to us in more or less accurate form, but several distinct Stonewalls: the riot itself, and the stories told about it; the 'facts' and the legends. *Stonewall-as-fact* is a noteworthy event and is rightly regarded, in a US activist context, as an epochal moment in the fight for liberation. *Stonewall-as-legend* is an exercise in heroic storytelling, artfully reordering and recontextualising things, and reminding us that cause and effect can be but distant acquaintances; that the line between events and their consequences can be diverted, whether deliberately or not, by the intervening contingencies of memory, time, transmission, power, and geography. In simple terms, public memory is one big game of telephone – the facts *will* get distorted over time, but the interesting thing is to see *in what way* they get distorted, and how that changes the course of events. Some legends harm people, others lift them up. This has been a recurring theme in trans political history on both sides of the North Atlantic.

* * *

There are few places where the 'Stonewall effect' has been more exaggerated or misunderstood than the United Kingdom. In today's Britain, the word 'Stonewall' usually refers to the gay rights organisation founded in 1989 which belatedly got its name from the events in Greenwich Village, but knowledge of the riot was for a long time a niche thing, legible to the general public only vicariously. Its influence was most visible in the British GLF, which had a hand in the closest thing the UK ever got to a Stonewall-

scale clash between drag queens and the police. In September 1971, an interdenominational coalition of Christian churches and morality campaigns under the banner of the Nationwide Festival of Light organised a week of rallies in opposition to the ‘systematic corruption’ of moral standards through pornography, acceptance of extramarital sex and homosexuality, and explicit sexual and violent content in popular media.[16] Prominent supporters of the movement argued that Britain’s general ‘decline’ was ‘caused by lax morals and permissiveness’,[17] and they framed their struggle as a war against ‘moral pollution’,[18] leveraging modern conservative readings of ‘God-given standards of morality’ to mobilise an army of concerned Christians.[19] Beacons were to be lit at sundry regional rallies on 23 September 1971, followed by a unified assembly in Trafalgar Square and Hyde Park in London on Saturday, 25 September. The symbolism of the beacons is fairly obvious – first, they recalled the beacons lit during ancient and medieval times to signal the approach of enemy forces; second, they represented ‘Christ as the light of the world, lighting the darkness’.[20] Major figures in the festival included notorious morality campaigner Mary Whitehouse, rock singer Cliff Richard, and right-wing journalist Malcolm Muggeridge. Support was also expressed by Pope Paul VI,[21] Prince Charles,[22] and Archbishop of Canterbury Michael Ramsey.[23] Organisers initially expected around 250,000 people to join the proceedings in London,[24] but this was soon revised down to 100,000,[25] and on the day only around 50,000 attended, with a journalist from Birmingham struggling to find any festival-goers among the rail passengers heading to London despite British Railways making special provisions to accommodate the expected surge.[26]

For members of the political ‘underground’ like the Women’s Liberation Movement and the Gay Liberation Front, the Festival of Light was both a dangerous regrouping of opposition factions and an unprecedented opportunity to get their own messages across on a national platform. While their response can hardly be called a coherent organisational effort, they succeeded in capturing almost as much attention as the morality campaign itself through a mix of shock, spectacle, targeted disruption, and general

mischief. At a campaign launch event in Westminster Central Hall, five men dressed as nuns joined hands and stormed the stage ‘in a very un-Christianlike way’, shouting ‘Equal rights for homosexuals!’[27] Per the *Daily Mirror*, the fauxnuns ‘astonished the 3,000 people in the hall by fending off hefty stewards who tried to stop them’.[28] Meanwhile, somebody, possibly from this same circle of activists, created letters of most convincing appearance claiming to be from the festival organising committee, and sent these out to hundreds of people on the committee’s mailing list. The letters looked entirely ordinary save for one detail – they listed the start time of the rally in Hyde Park two hours *after* the actual start time.[29] Then, come the main event, members of the GLF marched around in drag shouting slogans like ‘free love’, while some protesters lobbed eggs and smoke bombs at Cliff Richard as he performed.[30] A 17-year-old protester relieved a police officer of his hat and threw it into the crowd.[31] Festival-goers tried to drown out the commotion with Christian songs and chants of ‘Jesus! Jesus!’, while a police helicopter observed proceedings from above.[32] In the end, twenty-eight people, ranging in age from teens to 40-somethings, were arrested for minor offences like insulting behaviour and obstructing police. A photograph of one of these arrests adorns the front cover of this book. One man from Manchester made a V-sign at a Salvation Army band and was fined £1 for the trouble, and most of those arrested received similarly trivial fines.[33] Today, the Festival of Light protest is mostly forgotten. Lasting only a few hours, involving only a few tens of people, and ending in slow-motion as small fines were handed out in the courts over the next few months, it never had, nor was it ever likely to have, the emotive power of Stonewall.

* * *

As far as any casual observer in twentieth-century Britain could tell, the story of trans people’s interactions with the law began not in some gang-run gay bar across the seas, nor with the arrest of some drag queens at a conservative festival, but in high society. April Ashley, a Liverpudlian

model and socialite who was outed as a trans woman by the *Sunday People* in 1961,[34] married Arthur Corbett, son of the Second Baron Rowallan, in the British overseas territory of Gibraltar in 1963, with April's trans status being known to Arthur from the outset. The marriage quickly broke down. April demanded maintenance payments and threatened litigation to retrieve them, but Arthur refused and filed for annulment in 1967, building his case on the argument that April, being a trans woman, had never been a legally valid wife to begin with and was unable to properly consummate, and that the marriage was therefore void. The same argument had been used successfully several times before, such as in the case of a young intersex person, Muriel Beckett, whose marriage was nullified at the request of her husband in the early 1950s.[35] Corbett's case was heard in the High Court of England and Wales in 1969, with Justice Roger Ormrod, a former Army medic and later a Lord Justice, presiding. While Ormrod stated that it was not within his purview to determine the 'legal sex' of April for all purposes, both legal teams called upon medical experts whose testimonies inevitably strayed into matters of biology and epistemology, and so the crux of the case became, in effect, the nature of sex itself, and the methods of its scientific identification. In his 1970 ruling, Ormrod expounded that 'There was general agreement among all the doctors on the basic principles and the fundamental scientific facts', including the idea that 'there are, at least, four criteria for assessing the sexual condition of an individual', these criteria being chromosomal, gonadal, genital, and psychological, to which some added hormonal factors. He continued his summary:

> [T]he biological sexual constitution of an individual is fixed at birth (at the latest), and cannot be changed, either by the natural development of organs of the opposite sex, or by medical or surgical means. The respondent's operation, therefore, cannot affect her true sex. The only cases where the term 'change of sex' is appropriate are those in which a mistake as to sex is made at birth and subsequently revealed by further medical investigation.[36]

Based on this interpretation of the expertise, April was deemed legally male, and the marriage was thus nullified – expunged without the need of divorce. Looking back on her experience in the year 2000, April said that 'Lord Ormrod's summing up was rude, crude and judgmental. It was vicious and nasty.' She claimed to have known the outcome by the third day of hearings, Ormrod's demeanour towards her throughout the case seeming distant and perfunctory.[37] While April was left to pick up the pieces, Britain's tabloid media expedited the case's journey into the national consciousness by capitalising on the sensational and salacious potential of the judgment, especially the information about April's medical transition that it forced into the open.[38]

Corbett v. *Corbett* closed doors that few even knew existed. One of these doors was the old system that allowed trans and intersex people to have the details on their birth certificates changed via statutory declarations delivered to the General Register Office. Section 36(3) of the Births and Deaths Registration Act of 1874 established the rules for dealing with errors on birth and death certificates:

> An error of fact or substance in any such register may be corrected by entry in the margin (without any alteration of the original entry) by the officer having the custody of the register, upon payment of the appointed fee and upon production to him by the person requiring such error to be corrected of a statutory declaration setting forth the nature of the error and the true facts of the case, and made by two persons required by this Act to give information concerning the birth or death with reference to which the error has been made, or in default of such persons then by two credible persons having knowledge of the truth of the case.[39]

This clause primarily concerned the correction of 'clerical' errors – details that were simply recorded incorrectly, such as the birth date or the spelling of a name – but it also enabled the correction of substantive observational facts like the sex of a baby. Thus, Section 36(3) gave trans people a way to have the sex and name entries on their birth certificates amended to reflect

their actual identities, as long as they could obtain the necessary declarations from their parent(s) and a medical doctor testifying that the sex identified by observation at birth was contradicted by other medical and social facts.

News of this system's existence reached one Michael Dillon in the early 1940s. As his biographer Liz Hodgkinson explains, Dillon, a trans man who had been working in various roles at an auto garage in Bristol during the height of the German bombing campaign, and who had already begun taking testosterone, discovered 'that individuals could get their birth certificates changed if it could be shown that they belonged more to the opposite sex than to the one in which they had been born'. He furthermore heard that there was a doctor, John Cooper of Bath, 'who would sign a medical certificate saying that he was far more male than female', which, together with a letter from his parents, would enable him to make his identity official.[40] Later a well-known physician and author in the field of sex alteration, Dillon is immortalised in modern scholarship as 'the first female-to-male transitioning person in the UK to obtain treatment'[41] and the first 'known transgender person to write about [the medical aspects of trans identity] prior to the 1950s',[42] but he spent 'most of his life trying to find and understand his own "self" privately, far from the madding crowd'.[43] Like many trans people in his time, he thought of the 're-registration' of his sex as a means of *avoiding* the revelation of his transness to society at large. In his autobiography, *Out of the Ordinary: A Life of Gender and Spiritual Transitions* (completed 1962, published 2016), Dillon wrote:

> Whichever way I had turned I had seemed to be hemmed in by birth certificates, identity cards, driving licenses and my mail as it was addressed to me. If I tried to change my job or if I were to start in a new town, it would be the same. Everyone would know at once and everyone would tell everyone else.

Haunted by fears of exposure, he wondered: 'Re-registration? Was it possible?' He soon got his answer, re-registering with the General Register

Office as Laurence Michael Dillon in April 1944.[44] His birth certificate was updated with a hand-written note in the margins reading: ‘In entry no 54, col 2, for [old name] read Laurence Michael and in col 3 for “girl” read “boy”. Corrected on 14th April 1944 by C. E. Weston, Supt Registrar on production of a statutory declaration.’[45]

Dillon is the first known trans individual to take advantage of this mechanism, but the fact that it was a familiar procedure by 1944 indicates that there were others, perhaps many, who had done so before him. Other state bodies also seem to have been quite used to cases like his. Dillon recalled that a Labour Exchange administrator told him in the mid-1940s: ‘Oh yes, we have had quite a lot of these applications [to amend the name and sex columns on documentation].’[46] Another trans man, Robert Allen, detailed his own path to re-registration in his autobiography *But for the Grace* (1954). Like Dillon, Allen recalls feeling constant anxiety in his young adulthood as to how he might prove that he was ‘really a male, despite my birth certificate, my identity card and all the other documents that proved my existence’.[47] After a month of negotiations with the office of the Registrar General in October 1944, Allen, armed with a statutory declaration from his parents attesting to his ‘tomboyish instinct’ in childhood and the resurgence of his masculine traits following the collapse of his marriage to a man, found his relief. On 30 October, ‘in the private room of the Registrar General an error that had occurred thirty years previously, and had made havoc of my life, was rectified’. This was a point of some pride for Allen, as the dust jacket of his memoir prominently declared that his status as a man had been ‘officially recognised’.[48] He married a cis woman on 23 December 1944.[49] Others achieved the same results in the 1950s and 1960s. Racing driver and former RAF pilot Roberta Cowell had her birth certificate amended in May 1951 with the same fashion of annotation, and a few days later received a substitute certificate only bearing the new information. Superintendent Registrar Philip J. Stevens agreed to do this upon receipt of statutory declarations from Cowell’s mother and a doctor, Charles Dusseau, who said of his involvement: ‘All I had to do was to verify that Roberta Cowell was a

woman.'[50] Scottish Baronet Ewan Forbes took the same step in 1952, his biographer Zoë Playdon describing the process as 'easy', requiring only a letter from an 'appropriate medical authority'.[51] Hove dentist and former naval officer Georgina Turtle had slightly more trouble with things as her request for an amended certificate was initially denied, but she succeeded in July 1960 after presenting three declarations from her father, a surgeon, and a sexologist,[52] and she was thus at liberty to marry a man in October 1962 in a highly publicised ceremony at St Margaret's Church in Westminster.[53]

Such was the legal situation all the way up to 1970. To make use of this system, a trans person had to have heard of it from someone – there was no support group from which to seek advice – and find a doctor who was willing to help, but even medical experts specialising in matters of sexual development and identity were often unsure how the law worked in these circumstances. Audio reels from the *First International Symposium on Gender Identity*, held at the Piccadilly Hotel in London in July 1969 with sponsorship from the Albany Trust and the Erickson Educational Foundation,[54] help to illuminate the legal situation of trans people in the twilight months of the pre-*Corbett* world. In his introductory address, C. J. Dewhurst, Professor of Obstetrics at Queen Charlotte's Hospital in London and part of the Gender Identity Unit founded in January 1969, explained that one of the many goals of the symposium was to get to the bottom of the 'legal aspect of things', including whether the 'precise legal position' of a trans person changes after they undergo surgery and whether 'legal re-registration' and marriage were possible under 'the law [as it is] framed at the moment in this country'. Dewhurst noted that clinicians working in the field had an indispensable function in the process as they alone could 'recommend re-registration' on medical grounds, though they could not be certain that their recommendation would be taken seriously by the bureaucracy since there was no official guidance to follow.[55] Trans people, meanwhile, had to rely on a small pool of specialist doctors to lend their support, since, as the *Women's Guardian* reported in January 1970, 'the birth certificate is unalterable unless the doctors agree there was a mistake and they very rarely do so'.[56] The system could for these reasons be

agonisingly unpredictable. There was no standardised structure and no single point of contact, with success or failure being a matter of perseverance and luck more than anything. In his talk at the symposium, Fred Oremland, a physician from Los Angeles, attributed the lack of clarity to the old truism that ‘laws seldom keep pace with scientific, academic and technical improvements’.[57] Existing statutes were ‘archaic’, but he was adamant that as medical knowledge continued to get better, ‘laws will follow and public acceptance is a foregone conclusion’.[58] David Green, a lawyer, described the procedure for altering birth certificates as being impenetrable by reason of incoherence, explaining: ‘Mystery surrounds exactly how far one can go with changing birth certificates, but essentially a doctor has to declare that a mistake was made at birth.’[59] The state clearly considered these measures proportionate, yet by Ormrod’s reckoning changes of this nature could only be seen as fantastical if well-meaning administrative conjury.

* * *

The *Corbett* ruling brought the era of ‘easy’ statutory declarations to an end, and it made waves in jurisprudence that hit shores far beyond Ormrod’s initial horizon of concerns. Christopher Hutton argues in *The Tyranny of Ordinary Meaning: Corbett v Corbett and the Invention of Legal Sex* (2019) that the case effectively ‘brought legal sex into being as an explicitly defined category of law’.[60] Ormrod himself would later downplay its significance, suggesting in his 1972 lecture to the Medico-Legal Society that ‘law is largely indifferent to sex’ and that it was up to civil servants to deal with any anomalous scenarios, such as that of a person who is legally registered as male and then gives birth to a child.[61] In his estimation, sex determination should rest on common sense alone. He wrote to Australian scholar Henry Finlay in the late 1980s that the ‘real issue’ in the case was ‘the meaning of the word “marriage”’. As for the matter of sex: ‘Giving the word “woman” its natural and ordinary meaning, could April Ashley be described as a woman? The answer must be No!’[62]

The UK was not alone in feeling the chill of *Corbett*'s shadow, as the ruling exerted a lasting influence in several other common law states, including Singapore, Canada, and New Zealand.[63] Until the late 1980s, as Corbett's down-under confidante Henry Finlay wrote in 1989, 'the decision in *Corbett* was generally regarded among Australian lawyers as the leading authority on the law relating to transsexuals which, more likely than not, would be followed by an Australian court',[64] while the phrase 'biological sex' entered US case law partly through references to *Corbett*.[65] Due to its novelty and its high-profile litigants, the case also drew international journalistic curiosity.[66] It was in the UK, though, that *Corbett*'s consequences would be most enduring, Andrew Sharpe having written that it maintained a 'stranglehold … over the English judiciary' for decades, with most courts opting either to follow it 'without question' or else to 'rearticulate' its reasoning.[67] The stark non-cognisability of trans identities in marital contexts was strengthened by a clause in the Nullity of Marriage Act 1971 stating that a marriage can be declared void if the parties 'are not respectively male and female';[68] the same language appeared in the Matrimonial Causes Act 1973, in theory preventing further marriages like that between April and Arthur Corbett,[69] and case law in the UK followed this pattern until 2002, when *Corbett* was cited in the House of Lords case *Bellinger* v. *Bellinger*, in which the Lords ruled that while a marriage between a trans woman and a cisgender man was not valid in UK law, the law itself was 'incompatible' with the European Convention on Human Rights (ECHR).[70] As the legal infrastructure for dealing with trans people was founded on the issue of marriage and the appended subject of sexual consummation (marital intercourse), British case law leaned heavily on medical testimony to determine the functional *sex* of a person, leading to what Sophie Wilkinson describes as 'a perceived English and Welsh hyperestablishment of the sex/gender identity-marker'.[71] In Canadian courts, by way of comparison, trans jurisprudence was rooted in the first instance in flexible questions of discrimination, meaning Canadian judges were 'freer to grapple instead with gender (as defined by social practice)'.[72]

Responding to the doom-laden narratives often told about *Corbett* v. *Corbett*, some scholars like Stephen Poulter have sought to add much-needed nuance to the story. On one hand, Poulter criticised Ormrod in his 1979 article in the *Modern Law Review* for privileging physiology over psychology in the determination of sex, and for setting unrealistic definitional standards that would exclude many cis people from being recognised to possess 'the capacity for natural hetero-sexual intercourse',[73] but he believed, on the other hand, that *Corbett* v. *Corbett* was a wholly *reversible* mistake. There was, he said, 'a clear need for *Corbett*'s case to be overruled by a higher court so that at least an operated transsexual may be regarded by the law as having changed sex so far as capacity to marry is concerned'. Poulter observed that this had already been accomplished in New Jersey in the case of *M.T.* v. *J.T.* (1976), in which the court explicitly rejected the *Corbett* model. Paraphrasing a speech made by Sam Silkin MP during the parliamentary debates on the Nullity of Marriage Bill in 1971, Poulter noted that neither *Corbett* nor the Nullity Act precluded 'a future court, relying on further developments in medical knowledge, [placing] greater emphasis upon gender in determining whether a person was to be regarded as male or female'.[74] It seemed plausible that the detriments of *Corbett* could be overcome through litigation rather than legislation. Highlighting another silver lining in 1995, US trans activist Phyllis Frye and medico-legal expert Louis H. Swartz noted that if a person's 'sex at birth' is viewed as a probabilistic prediction of the baby's future sexual development, including the psychological aspects of sex, then Ormrod's ruling (that legal changes of sex can only occur in cases where an observational 'mistake' is 'subsequently revealed by further medical investigation') need not rule out accommodations for trans people: i.e., cases in which the psychological elements of sex develop contrary to predictions.[75] In 2019, Christopher Hutton argued along similar lines that *Corbett* contained the raw material of a 'radical idea' – that sex 'was not a unitary inner fact about an individual, a single ontological state, but the alignment of a series of factors', which implies that 'for law sexual identity is entirely domain-dependent' and can accommodate different definitions

for different purposes.[76] However, making good on this idea required that jurisprudence depart clearly from Ormrod's conservative logic.

No such breakthrough ever materialised, and the relationship between trans people and the law during this time was therefore defined mainly by invisibility and alienation. At the 1975 conference of the Beaumont Society, an early trans support network, the lawyer David Green reminded trans people: 'The law is virtually heedless of your problems.'[77] Ten years later, Silvia Perrini wrote in the *Woman's Journal* that British law 'raises insuperable obstacles which effectively deny transsexuals the new identities they have suffered so much to create for themselves'.[78] In 1990, solicitor James Morton explained that the wronged trans individual had 'nowhere to go in law',[79] while in 1996 Diane Morgan, in the trans periodical *Radical Deviance*, claimed that *Corbett* 'effectively made transsexuals neither entirely legally female or male and the ensuing case law eroded their human rights to the point where they face the most legal discrimination of any group of people in the UK today'.[80] The founder of *Radical Deviance* dubbed Ormrod 'the bogeyman', reflecting the toxicity of his name in trans communities.[81] More recently, in a 2015 article in the *Vermont Law Review*, M. Dru Levasseur identified *Corbett* as a key contributing factor in trans people's perennial treatment as 'non-human in the eyes of the law'.[82] In the immediate aftermath of the *Corbett* ruling, a thin ray of hope was provided by Lord Maugham, who argued mere days after the judgment that the case called for 'an immediate examination of the law in relation to sex-changes' because it violated the 'decent and reasonable' precepts of English law and ran contrary to the better will of:

> the people of Britain, who are innately kind, [and] do not wish to cause unnecessary suffering to those who have discovered as they grow up that the sex and shape of their bodies do not accord with the inclinations of their minds and hearts, or with the passion of their souls.

This being the case, he implored: 'Let the law be both wise and kind. Let the law be changed.'[83]

Thirty-four years would elapse before his vision was partially realised in the form of the Gender Recognition Act (2004), through which trans people can change their legal gender as long as they have a diagnosis of gender dysphoria and satisfy several other criteria. Since the mid-2010s, there has been a considerable push from trans advocacy groups to modify the Act to reduce its reliance on medicalised ideas about trans identity and include non-binary people. *Deviants and Trailblazers* offers the first joined-up account of trans political history in the UK, exploring the ideas, events, and circumstances that made recognition from the state a matter of cardinal concern for many who fall outside the bounds of the binary gender system. It also asks *why* this has been the case; why a seemingly dry matter of bureaucracy, of ink and paper, of a single letter, 'M' or 'F', was imbued with the hopes and fears of thousands. That takes some considerable explaining.

* * *

Identity-based human rights campaigns are operating within a pre-existing system and are always shaped to some extent by the assumptions and values of that system – it will be helpful, then, to spend a bit of time tracing the threads of recognition as a concept of governance back in time so that the actions of trans campaigners can be placed in their proper historical context. We may not always like it, but official recognition *matters* in the modern world. In a talk at the Eighth International Gender Dysphoria Conference in Manchester in 2004, Australian trans activist Rachael Wallbank explained:

> Increasingly in our world everyday legal and human rights, both fundamental and otherwise, are dependent upon a person's legal identity as assigned and as recognised by the state; including the person's assigned sexual identity or legal sex. Increasingly we are being required to produce formal documentation, such as passports, which evidence our assigned sex, in order to undertake even domestic travel and in order to prove who we are.[84]

For better or worse, states hold the keys that allow us to live in certain ways, do certain things, go to certain places, perform certain tasks, claim certain rights, own certain properties, relate to others in certain ways, and, ultimately, to be who we are and want to be. Sexual and gender identities are fully incorporated into this systematisation of identity. ‘Official gender identity is a powerful thing’, observes policy scholar J. Michael Ryan. ‘More than just feelings, diagnosis, or behaviors, official identity marks the status by which one can gain, or lose, access to certain social rights, responsibilities, and privileges.’[85] The modern state reserves the right not only to define which sexes and genders it believes to exist in a legal sense, but also to sort members of its populace according to their anatomy and/or chromosomal biology long before they are blessed with the mental capacity to have a say in the matter – by which time they will already have experienced the effects of having been so classified anyway. The distinction between sex – the biological identification of individuals as male, female, or (less frequently) a combination of the two – and gender – the normative socialised naming conventions, behaviours, presentational styles, and societal roles loosely associated with one’s sex – is collapsed in this system into a single paradigm. A male is a man. A female is a woman. Exception clauses are rare and tightly guarded. Depending on one’s country of residence, the options for officially breaking out of this simplistic duality are limited to non-existent. The innate diversity of humanity’s social expression is thus subordinated to the inflexibility of a nationwide authority that has no structural incentive to loosen the reins.

Under these circumstances, the only recourse for oppressed groups seeking to improve their conditions looks on the face of things to be either the optimisation of an inherently sub-optimal position through the acquisition of ‘better’ recognition, or else the total upheaval of the systems that make recognition important, which is a far more daunting task. In this Age of Recognition,[86] to be recognised by the state as who one says one is, is to be free; and if one is not free, then what I call ‘Mission Recognition’, the totemic effort to unlock the state’s patronage and thereby acquire legitimacy, often through the alteration of one’s official documentation, is

how one gets there, though it has never really been *about* the documents; it's about what those documents represent – acceptance. As scholars at the Australian Research Centre in Sex, Health and Society put it, amending documentation has become 'a focus for transgender people in the ongoing striving for, and the experience of impediments to, the achievement of personal and social recognition', and success is 'experienced not only as an affirmation of [one's] gender, but also as recognition of civil belonging'.[87]

The philosophical basis for the role of recognition in the functioning of modern states is multifaceted, but much of it can be found in nineteenth-century Germany. Born in 1770 to an upper-middle-class family in Württemberg and in later life a stately figure in the Prussian intelligentsia, G. W. F. Hegel is perhaps an unlikely individual from whom to draw theoretical matériel for a study of counter-hegemonic movements; even more so if we consider his traditionalist opinions on family and government. 'Our objectively appointed end and so our ethical duty is to enter the married state', he wrote of the family,[88] which he considered the first and foundational sphere of all ethical life.[89] Hegel's writing is noticeably top-heavy, with the state described as possessing a 'divine right' to be the ultimate temporal mediator between citizens,[90] whose spiritual energy, in turn, is best harnessed when guided towards a universal conception of Good.[91] The citizen is a particle in the greater mass, not a fully autonomous being, so for Hegel it is the protection of the 'spirit of the people' (*Volksgeist*), as embodied in the state, that makes individual and communal 'freedom' possible – not a negative and illusory freedom conceived as maximum liberty devoid of limitations, but an 'actuality of concrete freedom';[92] a freedom created and nurtured *by* the presence of limitations, including punishment for transgressions.[93]

This underlying reverence for power, described by some as Hegel's own spin on the 'cult of the state',[94] colours his account of 'recognition'. Hegel proposed that recognition (*Anerkennung*) is a mutually activated intersubjective process that takes place between two or more interlocutors, by which each acknowledges the other's being-for-self (*Fürsichsein*) and, by implication, affirms the legitimacy and coherency of that self. In his

Phenomenology of Spirit (1807), he explained that the two parties '*recognise* themselves as *mutually recognising* one another'.[95] This 'moment' can only occur when there is no power imbalance to render the outcome 'one-sided and unequal', as illustrated in the example of the 'master and slave'; unjust power is poisonous to true recognition.[96] In *Philosophy of Right* (1821), however, Hegel applied this theory to his ideas around the state, transitioning from its micro-application in the case of two people to its macro-application across a population. As Robert Williams explains:

> The state [for Hegel] is a complex form of mutual recognition that extends the sense of joint membership, participation, and shared self-identity, so important in the family, throughout the larger social body, transforming it from an external aggregate into a vital community, a living organism.[97]

Crucially, this recognition must still be *mutual*. If a citizen is to be seen as a legitimate part of the nation, they must in exchange recognise the lawful and moral authority of the state. Indeed, Hegel insists that 'the *right* of the state is that its idea be recognised and realized'.[98] Hence, the Hegelian state embodies 'that connection of feeling and insight, working throughout the consciousness of individuals as parts in a connected structure, which unite in willing a certain type of life as a common good in which they find their own'.[99] To recognise the state is to do more than simply acknowledge its existence; it is to become one with the life-force of a national community.[100]

How this applies in the real world is hotly debated. For one thing, some people just aren't in a position to participate in self-formation processes with any semblance of equality, like Black citizens living under Western colonial structures,[101] women living in patriarchal societies,[102] working-class people trying to survive in a capitalist economy,[103] migrants who, even when 'assimilated', often live in fear of being ejected from the national community,[104] and people with 'hybrid' identities who don't fit into boxes.[105] The state also has a great deal of control over the types of identity

to which people have access,[106] meaning it can sometimes steer them in a particular direction without direct coercion.[107] One does not simply formulate an atomistic identity in a cultural vacuum and then assertively present it to the state as a *fait accompli*, as if to say: 'This is who I am, take it or leave it.' The process involves the reconfiguration of the self in accordance with the hegemonic ideals that define acceptable formulas for selfhood, while refusal to follow those formulas leads to exclusion, which is often framed as one of the key ways that states protect the national community from those deemed undesirable.[108] All of this is to say that the intersubjective process between individual and state is unequal *by design*. In a sense, then, social movements that pin their hopes on recognition from the state are faced with a Sisyphean task. One might extract the appearance of equal respect, but the fact of having *once been* unequal, and the threat of being ignominiously retrograded to that status, remains. If the power of the state is inescapable, then true consent is impossible.

States do sometimes make accommodations, of course, but very often minority groups will have to deal with 'mis-recognition', which can be characterised as a social-spiritual ailment that manifests when one's identity or sense of place in the world is misunderstood, mischaracterised, or miscommunicated by other people or entities, opening a chasm between one's concept of self and the image that one sees reflected back to oneself in legal and social interactions.[109] Charles Taylor's 1992 explanation of what mis-recognition entails remains definitive:

> The thesis is that our identity is partly shaped by recognition or its absence, often by the *mis*recognition of others, and so a person or group of people can suffer real damage, real distortion, if the people or society around them mirror back to them a confining or demeaning or contemptible picture of themselves. Nonrecognition or misrecognition can inflict harm, can be a form of oppression, imprisoning someone in a false, distorted, and reduced mode of being.[110]

According to Taylor, the idea that being properly recognised is ‘a vital human need’ came into being during the twentieth century amidst the ‘collapse of social hierarchies’ and their slow usurpation by notions of universal human value.[111] The result was that liberatory movements increasingly sought to redress violations of *dignity*.[112]

* * *

As trans people trickled into new support groups to discuss their common struggles in the 1960s and 1970s, they started paying greater attention to the question of how their dignity could best be protected in law, and given the political environment in which they were operating, securing the state’s recognition of their identities was the obvious answer, though it was eternally controversial, since it was framed as a resolution to problems that were largely *caused* by the state to begin with. Many trans voices have made the case that offering the regime a chance to pretend to be inclusive inevitably shores up the status quo and delays its collapse, such that seemingly positive reforms do them a catastrophic disservice in the final analysis. US trans scholar Dean Spade contends that ‘no project of gender and sexual self-determination will be meaningful if it fails to engage resistance to an inherently violent and hierarchical capitalist economic system’.[113] The problem with reform, in Spade’s view, is that it is ‘proven to legitimize and shore up the very arrangements that produce the harm we seek to eradicate’. He elaborates:

> If we curtail and narrow our vision in ways that make it impossible to imagine a more just world, that limit our imaginations to what a legal system created to establish and maintain slavery and colonialism can provide, we will perpetuate rather than deeply transform the arrangements that concern us.[114]

To avoid strengthening the state, Spade calls on trans people to ‘refuse reforms that require dividing and leaving behind more vulnerable trans

populations', and to 'assume that the most easily digestible invitations to be included are the very ones that bring us into greater collusion with systemic control and violence'.[115] Though few express this conviction quite so mercilessly, Spade is not an outlier.[116] Paddy McQueen warns that 'inclusion is a double-edged sword that can function to erase or exclude some individuals / identities even as it respects and protects others'.[117] If binary gender cannot, by definition, be redeemed from its oppressive roots, then seeking recognition from the state as a trans person appears *at best* to be a misguided effort at integration with an incompatible system. The only reasonable conclusion would seem to be that 'the whole thing should be abolished' by a broad-based revolutionary movement that aims to make statist paradigms obsolete.[118] By invoking so great a rupture in history, revolutionary trans futurities take on an almost apocalyptic quality. Trans historian C. Riley Snorton writes expectantly of 'the end of the world' and the birthing of a new one less stained by the joint evils of racism and transphobia.[119] There are traces here of accelerationism: a rejection of the premise that deals might be struck with the regime, and a refusal to engage in incrementalism with a view to expediting its death.[120] Laura Miles states that the fight against anti-trans oppression, 'if it is to be successful, must be part of a universal vision of the working-class to unite all the oppressed in a fight to overthrow the oppressive and exploitative capitalist system'.[121] Identity-specific reforms in the here-and-now are of limited value because, Miles writes, they 'don't address the class roots of oppression in capitalism', and thus 'offer no substantive basis for fundamentally challenging the system'.[122] Marxist theorists Jules Joanne Gleeson and Elle O'Rourke offer an equally damning critique in *Transgender Marxism* (2021):

> In abdicating and surrendering our self-understandings to those very institutions that, throughout their histories, have sought to suffocate trans life – to render it unthinkable, unknowable, unredeemable – we suffocate ourselves in turn. … Transgender rights provide a hollow target. Civic emancipation is a pyrrhic victory. … To emancipate trans people

> requires, above all else, overturning class divisions, reversing our separation from the means of production, and developing new forms for nurture beyond the family.[123]

In the same volume, Nathaniel Dickson characterises the pursuit of legal reforms as an act of 'surrender', and accuses reformists of taking 'bribes offered for collaborating with our own oppression'.[124] Reformist projects are in this way cast as shameful – *worse* than doing nothing at all. It looks, therefore, as if the so-called 'assimilationist' and 'radical' wings of trans politics are opposite ends of a spectrum,[125] the tensions between them being a constant 'source of difficulty'.[126]

To the contrary, the belief that revolutionary change is desirable, in the end, is almost universal in trans political literature and is shared even by many of those whom Dickson might cast as bribe-takers. Far less ubiquitous is the idea that revolutionary intent cannot (or should not) *coexist* with reform. It is important at this stage to stress that advocates of trans law reform are not politically one-dimensional and rarely see state recognition as the be-all and end-all of liberation. The view of the late New York-based activist Leslie Feinberg was that while full trans liberation requires dismantling capitalism, this 'doesn't mean we shouldn't fight for reforms! All trans people need basic civil rights, and we need them right now.'[127] Many of the things that Feinberg called for could conceivably be achieved under the present system, like building 'safe, sanitary, single-occupancy toilets' and securing 'identification papers that reflect our lives respectfully'.[128] Those who take this view of the matter seek a *pragmatic* and *utilitarian* politics of recognition; Paddy McQueen, for one, suggests an approach rooted less in the idealism of recognition as a 'psychological quest for love, respect and esteem', and more in the concrete real-world consequences that recognition policies have on 'our ability to make sense of ourselves, relate to one another and exist within wider society', so that we can attend first to the ways in which certain policies limit or facilitate our freedom in society. In other words, recognition as a *means*, not an *end*.[129] Stephen Whittle, a leading trans campaigner and scholar in the UK, also

combines pragmatism with an unapologetic desire for radical upheaval.[130] In *The Transgender Debate* (2000), a short booklet explaining the challenges faced by trans people in Britain, Whittle blended demands premised on participation within existing systems, such as restoring the right of trans people to marry under their stated gender, with a vision of a future in which the operative principles governing legal interference with gender are made redundant.[131] Nor has Whittle's cognisance of the shortcomings of the politics of recognition dampened his conviction that the Gender Recognition Act 2004, for which he was a major advocate, was a 'state of the art' innovation in its time, and that reforming it should be a priority.[132]

In various guises, pragmatic dual approaches like this have been commonplace for decades. In *Sex Changes* (1997), US activist Patrick Califia wrote that while rights-based and abolitionist approaches may seem 'mutually exclusive', they are in fact *both* 'important components of the struggle for a gender-sane society'.[133] The perception that full liberation is impossible under a colonial and capitalist regime does not, then, lead inexorably to the view that incremental reforms are pointless in the way expressed in *Transgender Marxism*. Ryka Aoki writes to this effect in a 2010 essay, arguing that if trans people:

> pursue the romanticized goal of erasing structures, both political and social, then we will have no shelters to subvert, reform, or protect us. The police, the women's shelter, and the hospital may be closed to many trans women, but as long as they are there, there is the possibility of change.[134]

Because strategic pluralism is such a common phenomenon in the movement, sociologist Zowie Davy argues that the effort to understand the history of trans politics 'becomes unproductive and divisive when dichotomies of assimilation and transformation are applied'. This is true in no small part because very few activists fit neatly into one box or the other.[135] Kendall Thomas explains that there have always been activists who have structured their work around 'a complex and sophisticated "double

strategy”’ encompassing, on one hand, the ‘disestablishment’ of legal gender in an idealised future, and on the other, the maximisation of the right to ‘free exercise’ of expression in the present.[136] The founding assumption of this dyadic methodology is that ‘human rights, though necessary, are never enough’.[137] It accepts that all rights extracted from the capitalist state are built upon a slanted foundation, but concludes that, for the time being, one must make the best of a bad situation though intelligent compromises. It is assumed, further, that shortterm solutions do not negate system upheaval, but may in fact be the vector by which true upheaval is brought forward (a ‘death by a thousand cuts’ revolution). In short, the rise of revolutionary trans politics has not in any way impinged upon the proliferation of recognition-based activism. If anything, it has ensured its survival by injecting new vitality – a new excitement about the future that might be built – into the movement. Mission Recognition thus lives on – along with its limitations and drawbacks. As such, the story told in this book frequently sparks and smokes from the friction created by one looming question, unanswered and probably unanswerable till the fullness of time: Is state-granted gender recognition a step towards liberation, or is it not? With that in mind, our story begins in earnest.

1

In *Corbett's* shadow (1970–90)

Corbett v. *Corbett* appears in trans history as an unmitigated disaster, a cataclysm from which 'we', trans people in general, are still recovering. Sociologist Sally Hines writes that by reducing or removing their ability to adjust their personal details on official documentation, the case functionally 'disabled' trans people's rights to dignity and privacy in areas from employment to pensions to marriages and next-of-kin status, while 'non-recognition' also entailed 'the psychological – and very tangible – fear of disclosure (so that a trans person may be publicly outed if, for example, they were called by their original name in … a doctor's surgery or benefit office)'.[1] Historian Christopher Hutton touches on many of the same issues, describing *Corbett* as:

> blind to the administrative and legal complexities of human documentation, and … to the consequences of having more than one legal sexual identity in a social and administrative system that presumed the alignment of documentation with both the somatic body and the gender presentation.[2]

Put another way, trans people were more likely after *Corbett* to have to present documents that did not align with the way a civil servant, business administrator, police officer, or another official would perceive them based on their physical appearance and other traits. This often meant that their trans status would be involuntarily revealed while interacting with these

officials, leading to difficult conversations and creating opportunities for discrimination.

Many trans people living through the post-*Corbett* era used equally pessimistic language when talking about the case. A letter to MPs by members of the Self-Help Association for Transsexuals in February 1982 said that 'following Judge Ormrod's ruling and his judgements in sundry subsequent matrimonial affairs, the law treats us as if we were perverts living dishonestly on the immoral fringe of the criminal law'.[3] Later that year, Linda Avery of the *Guardian* wrote that the *Corbett* decision had 'dashed the hopes of many a trans-sexual' and put them in a 'legal strait-jacket'.[4] For her part, April Ashley regretted that her annulment case had 'mucked things up' for everyone else, and she hoped that she might eventually be able to 'make amends' by bringing a test case to the European Commission on Human Rights, a hope that would ultimately go unfulfilled.[5] A campaign pack circulated by the trans advocacy group Press for Change (PfC) in the late 1990s or early 2000s included a briefing paper outlining key talking-points, with activists being informed that in the 'Pre-1970' era: 'Support was provided at law. Birth certificates were annotated, marriage was legal, and the rights of citizens under detainment and imprisonment were assured.' Then, for the period 'Post-1970', the briefing outlines all the basic rights that had been lost, not least the rights to privacy, marriage, family life, and equal treatment under the law.[6] Topping off this mountain of woe, the birth certificate became, in the words of one journalist writing in 1990, the quintessential 'symbol of turmoil for transsexuals'.[7] A powerful historical-political mythology was forming in which all things pivoted on a single moment; that, in the words of influential activist and historian Zoë Playdon in 2021, trans people 'lived in complete legal equality with everyone else' until the end of the 1960s, when the basis for this equality was suddenly and stealthily obliterated:

> When the right to have their birth certificates corrected evaporated in the late 1960s, trans people's basic civil liberties disappeared along with it. No one seemed to know exactly what had happened: there had been no

> debate in Parliament and no new statutes or regulations. But suddenly, although trans people might live their lives like everyone else, they had no employment rights, could not marry or adopt, and if they couldn't pay their car-parking fines, they would be sent to the wrong sex prison, where trans women's rape was routine and yet not classed as rape.[8]

This chapter traces the development of a new trans political consciousness from 1970 up to the late 1980s, asking how different stakeholders and organisations sought to improve their legal situation through community mobilisation and strategic litigation. It also reevaluates the consequences of *Corbett* and argues that its influence was more uneven than some of these accounts would suggest, with the following decades being characterised by a scattered occlusion that left some areas of trans life bleaker than others, while the budding world of trans political thought, though certainly influenced and catalysed by knowledge of the case, did not necessarily hinge on Ormrod's ruling. In telling this story, the chapter also challenges the presentist perception in some recent literature that recognition-based models for trans liberation emerged as an unambitious or moderate foil to truly 'revolutionary' movements. I argue that creating a statutory system for the re-registration of one's gender became desirable during these decades because an increasing number of trans people were realising that the informal systems that prevailed both before and after *Corbett* were too dependent on the social standing of the applicant and the fancies of civil servants to be reliable or equitable. A statutory system could override some of the ambient bigotries that kept less economically and socially privileged trans people out in the cold. This objective was a product of rising political ambition, not capitulation; indeed, the push for trans identities to be given full legal recognition was often dismissed in early trans support groups as *too* radical and *too* ambitious, a perception rooted in the isolation and divisions of trans life in these decades and, ultimately, in the complex contexts and consequences of *Corbett*.

'SHE SEES HERSELF AS A TRAIL-BLAZER'

Lamentations on the sheer oppressive cold of *Corbett*'s shadow are not without merit. There is considerable evidence that the *Corbett* ruling directly and materially damaged trans people in areas far beyond the right to marry. Records from the Department of Health and Social Security (DHSS) held in the National Archives, Kew, show that civil servants routinely pointed to Ormrod's decision when deciding a course of action in cases where a trans worker wished to be treated as a member of their stated gender in claiming benefits, or to contribute to a pension scheme that accorded with their gender identity (at a time when men retired at 65 and women at 60, and thus had their pension contributions calculated differently). In 1978, the British Railways Controller for Corporate Pensions contacted the DHSS for guidance concerning a number of such cases, to which the department responded:

> In 1970 the High Court considered the true sex in law of a petitioner who had been registered as a male at birth but who, as an adult, had undergone treatment to make him as much physically as possible a female. … The High Court ruling was that the person was, and at all times had been, a biological male. The position in such a case is, therefore, that although the person concerned lives as a woman he remains, in law, a man.[9]

Later, in 1981, the DHSS again deferred to *Corbett* in its response to a letter from Labour MP Leo Abse on behalf of his trans constituents: 'The High Court ruling was that the person was, and at all times had been, a biological male.'[10]

This appears conclusive, but a more detailed appraisal of these documents indicates that *Corbett*'s effects were not ubiquitous, depending more on departmental culture and the whims of officials than on case law. In 1959, the Ministry of Pensions and National Insurance decided that a cis widow of a trans man was not entitled to widow's benefit payments because, in this 'pathetic' case, 'the "husband", with whom she had lived many years, had in fact throughout been a woman and not a man'.[11]

However, that year the same ministry set a different sort of precedent by deciding that a trans person *could* be issued a National Insurance contribution card in the 'wrong' gender in order to avoid disclosing their trans status to their employer. By 1966, this had been done in 'over 100 cases'. Because the civil servants involved considered that this was 'pre-eminently *not* a matter for legislation' and therefore held out no hope of clarification in law, they felt the best course of action was to 'continue with our present policy of considering each case individually as it arises and resorting to extra-statutory action as necessary'.[12] The internal treatment of such cases was not 'respectful' from a twenty-first century perspective – it was common for civil servants to use quotation marks around a trans individual's pronouns and stated sex/gender in memos[13] – but neither was there, as yet, any ideological drive to deny this type of request out of hand. Unexamined anti-trans 'gut feelings' rooted in gender-binarist traditions had not yet given way to active and conscious transphobia as a response to some rising 'threat' to cultural norms, as would be the case in the twenty-first century. Much depended on the applicant, i.e., whether they were considered respectable and worthy of administrative beneficence. The accomplished scholar and mountaineer Jan Morris found that the DHSS and the Passport Office met her with 'unexpected flexibility' when she asked for changes to her documentation, writing in her 1974 autobiography that the 'Welfare Officer of the Passport Office sent me a passport without any indication of sex at all.'[14] Morris's public reputation likely helped, though a lack of social status would not necessarily scupper an application, as evidenced by the case of one trans woman and her pension status in 1975. Civil servants in the DHSS clearly harboured a low opinion of this person, whom I will call Miss Jones. The notes circulated in the department following an interview capture a highly dismissive but still somewhat flexible tone:

> Miss [Jones], like most people with a mental conflict, is obviously prone to obsessions. … First and foremost, she sees herself as a trail-blazer for the handful of people in the world who suffer from her complaint. She

> claims to have wrung a teacher's pension out of the then Ministry of Education in 1959 as a result of Parliamentary pressure. … It is difficult to know whether we shall keep her passably sane by giving her the pleasure of combat or whether we shall send her over the edge if we take her on and defeat her. It is a most perplexing affair.[15]

An internal medical opinion procured by the department hit a similar note and casts light on the rationale behind the department's qualified willingness to be flexible:

> In the human being there is no such thing as a biological change of sex. … As you will know, the medical branch only advise the issue of a national insurance card appropriate to the opposite sex to assist in the treatment of the anxiety and depressive state that is so often developed in these people, and in [Jones's] case he [*sic*] seems to have benefited by this.[16]

In other words, it was better to participate in what was deemed a compassionate lie than to cause unnecessary mental distress to what was still considered a vanishingly small 'handful' of anomalous individuals, albeit a group with a sufficiently cohesive identity that one might seek to be a 'trail-blazer' for their interests. Two years later, a civil servant explicitly stated in a separate case that the department's decision to issue altered National Insurance documents to a trans woman was 'taken *on humanitarian grounds*'.[17] A set of formal instructions were distributed to members of the department in 1978 to ensure that the personal information of applicants was kept confidential, offering a comparatively open-minded (or 'humanitarian') justification:

> These people live their lives in fear that their deception will come to light and we consider that there could be tragic results if the truth were exposed by the Department. … The true sex of a transexual should not be disclosed to a third party except where written permission to do so

> has been given by the contributor or by HQ. In particular, if an enquiry is received from an employer about the liability of a person known … to be a transexual, the query should be answered as if the contributor were a member of the adopted sex unless permission has been given to do otherwise.[18]

Another set of instructions was distributed in 1981 to standardise the rather convoluted procedures for calculating trans people's pension contributions, explaining that 'The state treats each person according to his/her true sex, ie contribution liability and pension entitlement remains that for the true sex', but reiterating that it was of utmost importance that the 'true sex' of the individual was not divulged to third parties. These instructions also acknowledged that third parties like Occupational Pensions Schemes would most likely 'treat a trans-sexual, where the true sex is not known, according to the assumed sex', thereby preserving a grey area in which the 'wrong' gender markers and payment calculations could prevail.[19] This was not a *desired* outcome, so to speak, but civil servants were not necessarily out to undermine this flimsy layer of *de facto* recognition. Indeed, throughout the 1970s and into the 1980s there was a growing understanding in the DHSS that it was indeed engaged in a type of quasi-official 'recognition' of trans people's identities,[20] and given the enormous importance of their actions in relation to the safety and wellbeing of trans appellants, they felt that it was worth 'going to town' on these relatively rare cases.[21]

In its 1981 letter to Leo Abse, the DHSS insisted that it had 'always recognised the difficulties which can arise for these people in connection with social security matters and has made every effort to help where possible, particularly to ensure maximum confidentiality'.[22] Later, responding to a query from legal firm Bain Dawes & Partners in 1985, a representative stated that although '[t]he Department's records must reflect the legal position', it does nevertheless 'make a note of a person's wishes'.[23] In a sense, the department was acting according to the letter but not the spirit of the *Corbett* ruling, since it maintained a semi-formal middle-ground between cis men and cis women in which trans people could exist

with some portion of their dignity intact. All the while, the prior opinion that this was ‘pre-eminently *not* a matter for legislation’ was starting to bend due to the challenge of dealing appropriately with a recurring range of scenarios for which extant laws made no accounting. The pressure was mounting for a clear marker to be laid down at the very top of government. Not two months into the premiership of Margaret Thatcher in 1979, one civil servant in the department wrote to another that the status of trans people ‘is a matter of policy rather than a subject for a [departmental] Circular’.[24] At the same time, however, there was a latent uneasiness among some in the department about the propriety of their actions. C. R. Meredith, for instance, agonised in 1978 over whether ‘this Department [can] be seen to condone, and what is more be a party to, a deception of this nature’.[25] The use of demeaning language, like the phrases ‘a man is posing as a woman’ and ‘a woman is posing as a man’, also continued, betraying a limit to the department’s ‘humanitarian’ intentions.[26] This hardening did not come as a direct result of the ruling in 1970; rather, attitudes ebbed and flowed as the department muddled through with no meaningful assistance from ministers or legislation. Davina Cooper’s observations concerning the day-to-day functioning of the state are relevant here: ‘[P]ublic bodies do not act as unitary entities. … To the extent that their composition includes human agency, actors may use the informal authority and power they possess to counter regressive gender alignments.’[27] *Corbett* v. *Corbett* did not simply flick off the lights until the Gender Recognition Act flicked them back on again. After 1970, it was possible, though more difficult, for a trans person to attain a level of recognition not too dissimilar to that which could be achieved before, with only the birth certificate being fully off-limits.

Trans political thought – to the extent that such a thing existed at this time – also cannot be divided cleanly into pre- and post-*Corbett* eras, being in some respects unchanged by the case. This reflects two factors. First, as noted already, the real-world effects of the *Corbett* case were asymmetrical, patchy, and often unpredictable. While *in theory* Ormrod’s no-change-of-sex principle invalidated the piecemeal system of partial recognition that existed before 1970, *in practice* civil servants were not of one mind, and in

some ways nothing changed. Second, the specific limitations imposed by Ormrod upon marriage and (indirectly) the adjustment of official documentation were not relevant to all trans people, who in any case were not at this stage organised as a recognisable 'trans community' – something that activist and scholar Stephen Whittle believes to be a 'concept of the 1990s'.[28] For example, many 'transvestites' – those who crossed gendered clothing lines and took on a feminine or masculine 'persona', usually in controlled environments – never intended to contract marriages in a gender role other than that assigned to them at birth, nor did they wish to change their official gender status. The legal issues that interested them, like the potential for arrest under public decency and order laws should they be seen transgressing clothing norms in a public space, were almost entirely unrelated to the issues under contention in *Corbett*. A further factor to take into account is that one of the main sources of information on transness at the time was autobiographies by famous trans people, which most often reflected middle-to-upper-class experiences and gave voice to an ostensibly apolitical vision of the respectable trans individual who seeks no splashy legal reforms or public displays of acceptance, but wants simply to vanish into 'normality'. *Corbett* v. *Corbett* made this ideal of quiescence more challenging to maintain consistently because it undermined the ambient assumption present in most early trans autobiographies that engagement with the law was at odds with the aim of stealthy existence. Some form of public legal advocacy seemed ever more necessary to restore the right to privacy; that is, the desire for privacy paradoxically pushed more people to 'go public' as activists.

'AT LAST I KNEW'

Nearly all popular twentieth-century trans autobiographies share a common narrative turning point at which they undertake, for the first time, a hopeful trajectory. This is the moment at which the author, having spent most of their life not knowing anybody else dealing with the same web of feelings, recognises that their trans experiences are not entirely unique – the

realisation, in other words, that they are alone neither in the grand stretch of history nor in the present. For some, it is the former epiphany that carries the greatest meaning, as the writer felt their first sensation of epistemic kinship amidst the denizens of the past. Jan Morris, for instance, recalls in her autobiography *Conundrum* (1974) the moment when she discovered, in the Classical world, evidence 'that there were others in the world in precisely my own condition'.[29] This act of identifying 'trans' people in the distant past, often within cultures that are far removed from the modern West, was often necessitated by the fact that trans people in the twentieth century (and, in some cases, the present century) could go the vast majority of their lives without ever meeting another person who was struggling with the same feelings. It is difficult for someone who has never dealt with such total loneliness – the kind where you can't even *name* what you're experiencing – to understand how earth-shaking it could be to find references to people blurring gender lines in history books. The similarities didn't have to be very extensive for the effect on the reader to be utterly profound. For example, cultic practices involving cross-dressing in ancient Greece and Rome didn't have much in common with modern trans experiences, but they were still proof positive that the calcified gender binary was not the definitive statement on human expression, and sometimes that's all that is needed.

In *Transgender Warriors: Making History from Joan of Arc to Dennis Rodman* (1996), Leslie Feinberg explained how a personal journey of discovery began in the 1970s upon seeing statuettes of Indigenous Two-Spirit people in the National Museum of the American Indian in New York, leading to further research and the realisation that throughout history, in 'far-flung cultures all over the world', individuals and indeed entire cultures have existed outside of the man/woman binary.[30] The notion that trans people have *always existed* is a simple and rhetorically impactful claim that continues to find traction to this day.[31] The *Trans+ History Week Workbook* published by QueerAF in February 2025 insists that it is 'just a fact' that trans people 'have always been here', presenting a timeline that stretches back to 5,000 BCE and includes gender-liminal cult rituals in ancient Sumer

and Rome, the female Egyptian pharaoh Hatshepsut who performed traditionally male religious functions, and the Roman emperor Elagabalus who reportedly told a male lover to ‘call me not Lord, for I am a Lady’, and desired what we now call vaginoplasty.[32] Historians have made a great many cogent arguments to the effect that this way of interacting with the past (taking people who lived in drastically different contexts and claiming them as proof of ‘our’ existence through time) is not methodologically sound, but the main one is that it imposes modern concepts onto times and places where they make no sense.[33] Sometimes this has eerily colonial permutations in that it takes non-Western histories and co-opts them into a Western-centric narrative.[34] In a purely theoretical sense, I agree with this view. However, a bit of empathy is needed to appreciate the sheer relief that some trans people feel when they learn about gender diversity in ‘other cultures’ and antiquity. It doesn’t have to be methodologically bullet-proof to be impactful, and for those trying to find their way through the lonesomeness of the twentieth century, it could be the difference between despondency and hope.

While some trans people looked into the past, others were fortunate enough to discover kinship in the present. The autobiography of Mark Rees, who in 1992 co-founded the activist group Press for Change, describes one such ‘enlightenment’ that occurred in 1969, when he read a newspaper report on that year’s *International Symposium on Gender Identity* in London. ‘At last I knew’, he exclaims, ‘I wasn’t unique …. It was a discovery which was to alter my life.’[35] It is a joyous occasion. This narrative juncture signals the beginning of a process of self-acceptance in which the author finally finds words to assign to their feelings, serving to affirm their selfhood while implicitly inviting the reader to affirm it also. As Mary Leontsini and Yulie Papadakou note in their article on Greek trans autobiographies, the ‘quest for recognition’ is integral to these texts, as the point of their being written is largely to translate self-acceptance into acceptance by others of this state of being.[36]

Some scholars perceive a ‘manipulative’ intent here, suggesting, as Bernice Hausman does in her book *Changing Sex: Transsexualism,*

Technology, and the Idea of Gender (1995), that 'the reader is interpellated only as a fixed and passive presence whose function it is to verify the narration offered by the author'.[37] In Hausman's view, trans autobiographies *create* the trans experience and, through textual sleight of hand, present this creation as a timeless reality, trading in a similitude of naturality and tradition.[38] Trans literary scholar Jay Prosser, conversely, points out that neither the privileging of the author's subjective reality (without which the *auto* in *autobiography* becomes redundant) nor the interpolation of the reader into recognition of the author's sense of place in the world (without which the genre loses its potency) are unique to trans autobiographies. These characteristics are simply part of the medium itself; a known feature that the reader *expects* to encounter. Because they possess a heightened function as legitimisation for a legitimacy-starved minority, trans autobiographies, *as autobiographies*, necessarily create and reproduce an experiential archetype. That's the point. Prosser thus argues that when they are read by other trans people, they are also a form of community-building between author and reader, as the 'reading of transsexual narratives allows for the recognition of one's own bios' in the life of another.[39] Moreover, as Sarah Ray Rondot writes, the genre is inescapably political, offering 'a social and political platform from which to resist dominant discourse and encourage collective knowledge growth'.[40]

Though possessed of this great political function, the precise political *intent* or *demands* behind any given trans autobiography are often detectable only as subtext. This, too, is to be expected. Early trans autobiographies simply were not intended to speak into an ossified and polarised political 'debate' on trans identities. They were responsive to the realities of trans life in their time – isolated, inconsistent, and lacking the matured organs of a strong community. For this reason, many twentieth-century autobiographers, if they made any directly political statements at all, focused almost exclusively on the right to privacy and respect for those inoffensive transsexuals who, through expensive surgeries and the leveraging of their social standing, could pass mostly undetected in general society. The 1967 *Personal Autobiography* of Christine Jorgensen, an

American trans woman, actor, and former GI who captured worldwide attention in 1952 after undergoing medical transition,[41] is a case in point.[42] Jorgensen recounts numerous professional and personal setbacks brought about by anti-trans hostility in the book, but rather than offering a redressive manifesto for cultural and political change, she concludes each story of wanton bigotry with what Patrick Califia calls 'a sort of verbal shrug',[43] as she gives radical potentialities such as communal resistance to anti-trans oppression, if such a thing was even conceivable to her at the time, a wide berth. When Jorgensen refers to the 'recognition' of transsexuality or trans people, she usually means the recognition of certain 'conditions' by the medical establishment. At no point is the notion of state recognition brought into play.[44]

In light of her silence on the systemic causes of anti-trans sentiment, historians tend to place Jorgensen within those currents in trans thought that lean on ideals of assimilation and medico-normativity and thereby impose an expectation that all trans people will fit a particular model,[45] although it must be testified that her work increased public consciousness about the social and legal difficulties faced by trans people and helped pave the way for more avowedly political trans discourses in the 1970s.[46] Besides, her rhetorical conservatism was neither exceptional nor extreme by the standards of the time. Some contemporary trans autobiographers went so far as to imply that engagement with the law was something that only the most scandalous and undeserving transsexual miscreants would ever need to consider. For instance, in *Emergence* (1977), US trans man Mario Martino wrote that those transsexuals who can be found 'impersonating and working as prostitutes … are the ones who run headlong into the law. These are the ones who give a disreputable tinge to transsexualism.'[47] In this framework, a trans person's dignity is incompatible with special legal treatment, for such treatment would only become necessary at the point at which the individual has already failed to 'pass' undetected. Bold political activism and cultural visibility are here denigrated as the last bastions of the scoundrel. Even so, some writers made tentative suggestions for change

that, while not quite adding up to a full programme for legal reform, certainly made such a thing thinkable.

Three British trans autobiographies from this period, those of Roberta Cowell, Jan Morris, and April Ashley, attest to the political implications of trans self-narration. Concepts of external recognition play a crucial role in the stories of each. Roberta Cowell (1918–2011) was an English racing driver and RAF pilot who underwent medical transition in the 1940s and 1950s. In 1954, she published *Roberta Cowell's Story: An Autobiography* – the first book of its kind to achieve mainstream popularity in the United Kingdom. Cowell utilises the concept of recognition in two ways. First, it is employed in a very Hegelian sense to denote the moment at which two individuals either recognise or fail to recognise each other. The potential for this initial moment of intersubjectivity to misfire or spell trouble is present even before Cowell's transition comes into the picture; she points out, for example, that the 'recognition' of aircraft as friendly or hostile was a persistent problem during her time as a fighter pilot in the Royal Air Force in the Second World War, resulting in numerous instances of friendly fire.[48] On one occasion, after Cowell and some of her service friends trespassed in a house near Swansea, it was the fact that one of the neighbours 'recognised' Cowell that led to her being sought by police as 'a fugitive from justice'.[49] When captured by the Germans, Cowell notes that she was 'not very anxious to be recognised as a R.A.F. pilot'.[50] That being recognised is not always a blessing became only more apparent when, after the war, Cowell began venturing out in feminine dress. 'Sooner or later,' she felt, 'someone would be bound to recognise me', and it would be a terrible ordeal when they did.[51] By her estimation, only surgical transition could take her 'beyond recognition' to her old acquaintances and render her safer from the ignominy of being involuntarily outed. 'The plan, therefore, was to have my face drastically altered. Then I should not have to *fear recognition*.'[52] The recognition in question is primarily social, although Cowell does compare her case to that of Raoul Hurpin, a French soldier who served in the First World War and whose later identity as a woman became an issue when one of her past sexual liaisons sought to establish

Hurpin as the father of her son. Cowell notes that ‘Proceedings were then taken to secure official recognition of [her] change of sex’, and, availed of a new legal status, Hurpin would go on to marry a man.[53] A centralised, predictable mechanism for changing one’s legal sex that could be accessed by a large number of individuals (rather than the somewhat esoteric, small-scale system that then existed) was not yet a priority in UK trans literature, but in referencing the Hurpin case and later outlining her own change of legal sex, Cowell at least implicitly acknowledged the benefits of such a system.

Jan Morris (1926–2020) was a Welsh historian, journalist, mountaineer, and veritable polymath who underwent surgical transition in 1972 and published an autobiography, titled *Conundrum*, in 1974. Three primary levels of recognition appear in *Conundrum*. First, there is self-recognition, as one must be legible *to* oneself before one can hope to be socially legible *as* oneself. Morris describes a moment in her childhood when (in a typically Morrisian turn of phrase) ‘different in some way I recognized myself to be’, and this represents the turning point in her life; the start of a long journey of self-discovery.[54] Second, there is social recognition, represented by moments of affirmation when ‘sensitive souls recognized the feminine’ in Morris.[55] Finally, there is recognition from medical and state authorities. Morris writes that it was the leading endocrinologist Harry Benjamin who ‘first formally recognized the existence … of people like me’.[56] She later recounts her engagement with the DHSS and the Passport Office, collectively labelled ‘the Establishment’, which, in her words, reassured her that ‘When the time came … my new sexual role would be officially recognized.’ Societal recognition is collapsed into state recognition, as it is Morris’s acquisition of new identity documents that prompts the hopeful comment: ‘Now I felt that *society* … recognized me for what I was.’[57] There is a hierarchy at play here. Self-recognition breeds self-acceptance, while social recognition breeds self-assurance. Armed with these instruments, one pursues recognition from the state, an intervention from on high which pushes the societal needle towards tolerance. The *symbolic* significance of a change in the law is seen to far outweigh the bureaucracy

of it, with the ‘recognition’ gained being so much more than just a piece of paper or a passport.

April Ashley (1935–2021), an English actress and model, could vie with Morris and Caroline Cossey, who played a ‘Bond girl’ in the 1981 film *For Your Eyes Only*, for the status of most famous trans Briton during the twentieth century. However, it is not Ashley’s autobiographies, published in 1982 as *My Odyssey* and 2006 as *The First Lady* (later pulled from print due to large sections being identical to *Odyssey*)[58] for which she is known, but rather her aforementioned legal troubles. By disrupting the piecemeal administrative relief previously available to trans people, the *Corbett* case put ‘recognition’ at the front of a nascent trans political consciousness and, at the same time, helped make this consciousness possible by unifying people around a common sense of loss; a shared siege mentality. Ashley herself understood that the invalidation of her marriage presaged consequences far beyond her own life. She insisted in an autobiographical piece published in the *Sunday Mirror* on 8 February 1970 that the verdict ‘puts all the people *like me* in a terrible situation’, leaving trans people ‘naked, unprotected’ against the hatred of society.[59] From 1970 onwards, it seemed to Ashley that the recovery of legal recognition for trans people was the key to all other rights. She put it in starker terms in *My Odyssey*, asking rhetorically: ‘Is it the function of the law to create non-people?’[60] The point was that the presumption of respect for one’s undiluted personhood is a prerequisite if one is to live and die with dignity, and it is fundamentally this *respect* that many trans people, some of whom were now thinking for the very first time in terms of a ‘we’ and ‘us’, felt they had lost in 1970.

These autobiographical texts served as vectors through which the legal plight of a certain class of trans person was communicated both to other gender-questioning individuals and to the cisgender public. The social background of the authors perturbed some trans readers in the early 1980s, who expressed concern that the books projected a view of trans life that bore no relation to the ‘plain, normal and downright boring’ lives of most trans individuals,[61] but others praised the likes of April Ashley for their bravery, believing that ‘attitudes [were] changing’ because the public now

had some insight into the community's problems.[62] A seed was planted in the minds of many a reader that would sprout, in some cases over three decades after the fact, into a very particular mode of thinking about trans rights, one that centred on gender recognition as the gateway to a broader vista of respect and safety. Some of these readers would eventually find themselves as activists. Clare McNab, one of the leading organisers and communicators in the campaigns of the 1990s and a powerful advocate of the recognition-based strategy, said in 2003 that 'Before reading Jan Morris's memoirs, I had no concept of what I was experiencing.'[63] Others remembered *Conundrum*'s publication as the beginning of their or the public's awareness of trans people – Conservative MP Andrew Robathan said as much in a 2004 debate in Parliament,[64] as did Liberal Democrat peers Baroness Featherstone and Baroness Barker in 2018 and 2020, respectively.[65] Though it did not make any claims to universality, *Conundrum* also ended up minting an expectation that all trans women would be *like Morris* – educated, accomplished, and distinctly feminine – an accidental bequeathment with hefty consequences, not least that some influential cisgender commentators came to the conclusion that *informal* acceptance based on one's respectability was the proper basis for all trans recognition. In July 2002, the *Telegraph*'s Tom Utley wrote:

> The last thing, I hope, that any of us would want is to be unpleasant to people like Jan Morris. She is quite obviously a woman, and a very nice, unassuming and clever one at that. She behaves like a woman, dresses like one and thinks like one. It would be abominably rude to call her a man.[66]

Utley could not comprehend why someone like Morris would ever need the state to officially recognise their gender. She simply *was* a woman, and no decent person with a lick of good manners would mistreat such a lady. But Utley's reverence for reputable standing actually reveals one of the central reasons for the emergence of *legal* gender recognition as an objective for trans activism. Not every trans person *is* like Morris. The goodwill of others

is fickle; unreliable. A centralised system for sorting and re-sorting people according to gender identity creates its own problems, not least the implication that the state ‘owns’ the right to define social categories, but it does, in theory, provide greater predictability than a system of piecemeal recognition gleaned from civil servants, judges, and other such actors, and makes access to administrative adjustments dependent not on the ability to leverage one’s abstract social standing but on predetermined criteria that apply to the famous and the ‘ordinary’ alike. To be functional, though, a statutory recognition system requires the prior formalisation of a named identity and a *recognisable* community attached to it. In the 1970s, the ‘trans community’ was still very much a work in progress.

‘ARE WE NOW LEGAL?’

For much of the mid-to-late twentieth century, the largest and most influential trans organisation in the UK was the Beaumont Society. Taking cues both politically and stylistically from the work of cross-dressing activist Virginia Prince in Los Angeles,[67] and modelled on her group Full Personality Expression (est. 1962), the society had 140 members by 1970 and over 1,000 by 1975.[68] It was a mostly white, politically cautious, socially diffident, and deeply middle-class body which from its foundation in 1966 until a change in its constitution in 1983 was defined as a group exclusively for *heterosexual* trans people,[69] primarily transvestite men who lived most of the time in their gender assigned at birth.[70] These individuals were usually married to a person who was, in the eyes of the law, of the ‘opposite’ sex, and they did not make a habit of wearing clothing ascribed to this other sex except in private spaces or while engaged in low-profile public activities like shopping or dining. The question of whether they could marry a man in their ‘femme’ identity thus never mattered; nor were other bureaucratic issues like employment or pension schemes ever considered a major obstacle as long as one’s proclivities remained private. Instead, the legal questions most relevant to the early members of the society concerned police harassment and accusations of either disturbing

the public peace or, when driving, of attempting to defraud a police officer by appearing to be of a different sex to that implied by one's driving license. In the very first issue of the society's newsletter, the *Beaumont Bulletin*, in 1968, it was flagged by one member, Pamela,[71] that while it was 'not criminal to be a TV [transvestite]', it *was* nonetheless:

> criminal to attempt to defraud, impersonate … etc. which can be done by the acquisition of a 'phoney License'. You can, of course, apply for a provisional license in your Femme name and take a test etc. as there is no requirement to prove one's sex, as far as I am aware.[72]

As Pamela expressed it, the solution to this specific problem was not to be found in the legal 'recognition' of one's identity. The onus was on the individual to be educated and to behave tactfully.

Contributors to the *Bulletin* discussed in ever more informed and creative ways the question of how to resolve these problems, and in time a form of legal recognition did creep into the picture. One member, Megan, mused in a 1974 contribution about a hypothetical 'Transvestism (Male Legality) Act', envisioned as passing some time in the 1980s, which would proclaim that 'henceforward the wearing of feminine dress by males in public would not be unlawful'. Though transvestism itself was not illegal per se, this imaginary Act aimed to clear up those instances in which wearing women's clothing as a man could be considered a disturbance to the public peace and thus a pretence for arrest. The legislation would remain a fantasy, though. Megan concluded that an Act along these lines would not dampen public hostility towards transvestites, so she offered instead the slim reassurance that one could be 'secure from prosecution' if only one tried to 'cause neither trouble nor offence'.[73] Another idea, the centralised registration of transvestites and the issuance of special identity cards, was trialled later that year in a letter to the Home Office, which noted flatly by way of response that the issue was 'entirely within the discretion of a magistrate', and then passed the idea on to the DHSS. The latter added

that ‘it is not considered that there is a case for the registration of transvestites nor for the issue to them of identity cards’.[74]

As the 1970s progressed and transsexual people became more prominent in the Beaumont Society, discussion of their distinct legal problems began to emerge in the *Bulletin*. In a 1976 article, Rosemary King argued that ‘Socially and legally the two conditions [transvestism and transsexualism] pose sometimes the same problem, sometimes different ones.’ She continued:

> Both types of people will wish to appear in public and so risk detection, possible reporting to the police and both may face the charge of ‘behaviours liable to cause a breach of the peace’. I assume that any transsexual so charged would have immediate recourse to her medical practitioners and an acceptable defence in law would be available. The public lavatory provides another example of a situation which is the same for both states.[75]

The belief that transsexuals were protected by their medical backgrounds from undue arrest and prosecution would prove optimistic in many circumstances. The law as it was made no explicit distinction between a person cross-dressing *with* or *without* medical intervention. The real significance of King’s piece lies in its sheer optimism (and its curious lack of reference to an overarching legal evil in the form of *Corbett*). She believed things to be getting better, noting that ‘National Insurance cards are no longer a problem’, although she warned that ‘the D.H.S.S. is in a tizzy over the age at which the transsexual should receive a pension’. Her observation is borne out in the departmental documents discussed earlier. There was no guarantee that one could secure access to a desired pension arrangement, but that possibility was at least on the table; *Corbett* did not close off that avenue, just as it did not *necessarily* exacerbate the problems of police persecution and safety in lavatories.

In summary, a growing number of trans people in the mid-to-late 1970s were beginning to imagine a distinct list of legal and political restrictions

that they might someday seek to change as a collective. The Sex Discrimination Act of 1975, which made discrimination based on sex and marital status illegal in circumstances relating to employment, education, and the like, gave this brewing sense of trans political mission a shot in the arm, as some, like the Beaumont Society's Shirley Maxwell, wondered: 'Are we now legal?' Maxwell postulated that, following the Act's coming into effect in 1976, 'we [transvestites] cannot, as I read it, be discriminated against on the grounds of dress … [because] such pleasure can no longer be construed as likely to cause a breach of the peace'. Extrapolating from the text of an Act that made no specific mention of trans people, Maxwell found herself in high spirits:

> It would follow, if this is correct, that any bye-laws [*sic*] prohibiting men from dressing in female clothing, if any such exist, are now illegal, and would automatically be repealed by the new Act. … So any police officer or other person making such an allegation is liable to being accused by the victim of acting unlawfully, and can have an action brought against him which, I believe, would stand up in court.[76]

This too was premature. In truth, it was not until the Sex Discrimination (Gender Reassignment) Regulations of 1999 that Maxwell's hypothesis would be partially realised and trans people would gain some codified protections against discrimination. The 1975 Act did not recognise trans people's sex identities as carrying any legal weight – the UK Government made precisely this argument in a 1994 European Court of Justice case concerning the dismissal of a trans individual by an employer following their 'sex reassignment'.[77] In 2025, the presumption of a sexual binary in the Sex Discrimination Act formed part of the basis for the UK Supreme Court's ruling that trans women could not be considered women under the provisions of the Equality Act 2010 pertaining to the protected characteristic 'sex', with the court asserting that 'there can be no doubt that Parliament intended that the words "man" and "woman" in the SDA 1975

would refer to biological sex', and noting that 'the trans community of course existed at the time but their recognition and protection did not'.[78]

Another *Bulletin* reader, Angela Davis, wrote in to douse this excitement, pointing out that trans identities and conditions remained totally unrecognised in law and the old system was in this regard still in operation, meaning that if it could be proved that one was cross-dressing in public, and someone complained, 'then you will be convicted and sentenced and rightly so for you will be GUILTY of a criminal offence'. Davis opined in a moment of pragmatic dejection: 'It is a great pity that this is the law, but let's not take to wearing blinkers for fear of seeing reality out of the corners of our eyes.'[79] Hopes had been dashed, but it was at least being normalised in the staid pages of the *Bulletin* to talk about a *legislative* path towards trans freedom, and as attentions turned in that direction, the *Bulletin*'s pages were increasingly drenched with open rhetorical warfare between a reformist faction, which sought to relieve trans people's discrimination through regulatory and legislative adjustments, and a revolutionary faction, which sought to overthrow the systems that produced anti-trans bigotry in the first place. The latter, no less than the former, was a product of its time. At just the moment when some transvestites and transsexuals were debating the rationale for a specialised piece of legislation to address their distinct needs, the feverish political atmosphere of the 1970s brought to the fore a party of trans people to whom legislation ultimately meant capitulation. All the while, a conservative 'no-change' faction also played a consistent role, arguing that it was the responsibility of trans people to keep their 'disorder' out of the public realm.

In the January/February 1977 issue, the *Bulletin*'s usual fare of fashion and gossip pieces interspersed with the occasional reformist political article was disrupted by a punchy contribution bursting with radical feminist energy. Angela Summerfield, an author and Beaumont Society member, urged into existence a new sense of purpose for those who were 'not merely trying to free the phantom female inside, but actively to use her to revolutionise, creatively, our daily lives as male and in so doing, hopefully, the society that currently enslaves us more tyrannously to my mind than

women'. She believed that the tensions between maleness and femaleness that existed in the transvestite should not be viewed as something to hide with careful subterfuge or craftily adjusted documentation, but as 'magnificent potential sources of creative re-thinking on so many lines – psychological, philosophical, historical, political, literary'.[80] Another salvo was fired in 1979 by one Hazel, who described herself as 'a TS [transsexual] with innate radical feminist views'. Hazel aggressively critiqued the Beaumont Society's politics, going so far as to cite anti-trans sentiments to make her case for revolutionary feminism. She opened by stating that she had 'read each copy of the Bulletin religiously from cover to cover and … ended up fuming, more often than not, at the thoroughly trivial image of women it projects'. Contrasting this whimsical culture with what she saw in cis radical feminist circles, she felt it no surprise that many in the latter harboured little sympathy for the former. She quoted, by way of illustration, a recent edition of the *London Women's Liberation Newsletter* which stridently asserted: 'Putting on skirts and make-up, even having the "operation", does not turn a man into a woman. … No, in our mothers' name and in our own, we must not call him [the transsexual] sister.' The lack of discussion in the *Bulletin* of rape and violence towards women, and the society's barring of gay people from membership, were particularly offensive to Hazel, who wondered where 'all the young radical TVs and TSs' were, since they were evidently not in the society.

Enumerating the damage that she believed had been done by chronic political timidity in the community, Hazel posited that the 'phoney veneer of respectability which the B.S. [Beaumont Society] attempts to foster kills off any chance of making any real breakthrough in public opinion', and at the height of her polemic she interjected her own explanation as to *why* the society could muster nothing more than soft reformism:

> [U]nless you can successfully pretend to be a respectable white male heterosexual, this world is liable to discriminate against you. (Of course, there is no pretence possible for blacks, and for women – no wonder that feminists have so little sympathy with TVs.) Evidently, the majority of

> B.S. members find the pretence easy enough – there is too much to lose, and letting gays in the B.S. is gonna make it so much harder to keep up appearances, isn't it?[81]

Hazel's uncompromising attack on Britain's largest trans organisation unleashed a wave of dissatisfaction with the way the political conversation in the society had up till then been conducted. Ella, who had been involved in radical and anarchist movements since her youth, suggested that trans people's positionality 'outside the zeitgeist' and the public perception that they were 'threatening to the patriarchal establishment' gave them 'a responsibility to the broad sex-pol [sexual politics] movement', most notably the 'women's movement and gay lib'. She felt that the society should facilitate a 'discussion on where and how we fit in with other people struggling for the right to express themselves freely, and where we can make common cause in creating wider understanding, not only of our problems but also those of anyone who is sexually oppressed', signing off: 'Love and wishes for an androgynous future.'[82] These articles remind us that revolutionary trans politics was present and vocal long before the first piece of legislation addressing trans issues was on the books. The revolutionary urge did not stem from disappointment with the provisions of actual legislation, as if to say, 'let's try something else', but rather arose from a dissatisfaction with the very *concept* of a recognition-based liberation. It was not that Mission Recognition *had* failed, per se, but that some were sure that it *would* fail to deliver holistic change.

There were two main categories of response to these arguments – particularly to those of Hazel, who mastered the role of the provocateur. The first was offered in a direct response piece by Alice Purnell, the *Bulletin*'s editor, to Hazel's letter. Purnell defended the society's exclusion of gay people on the simple grounds that it was 'not a gay organisation', and because the wives of members, already 'not overjoyed to find their guy is a [transvestite], let alone a [transsexual]', would be even more horrified to find out that 'their guy' is 'part of a quasi-gay organisation'. As for Hazel's broader political demands, Purnell noted that many members were

‘middle aged, middle class, and have the same attitudes as any person from that background regarding radicalism, feminism or any extreme of political or behavioural attitudes’. A further restraint on radicalism, as Purnell saw it, was the society’s relative lack of political and cultural clout. ‘We cannot overnight ram [transvestism] and [transsexualism] down people’s throats,’ she said, and moreover, alliances with radical feminists would be difficult to form since ‘the lunatic fringe among the women’s movement is not noted for its tolerance of [transsexuals]’.[83] Purnell did not entirely lack sympathy with Hazel’s values, yet she felt that, given the circumstances, what Hazel proposed was impossible. Meanwhile, some of the society’s trenchantly conservative members met the rising revolutionary rhetoric in the *Bulletin* by restating the case for a light-reform or even no-reform strategy. One such member, Trina Taylor, denied that ‘discrimination against the transexual’ was even a real thing, alleging that activists resorted to a ‘manufactured discrimination’ that they created by ‘pointing an accusing finger at all in general and adamantly acclaiming that “you are all against me”’.[84] Margaret Cleverly carried the torch for conservative members throughout most of the late 1970s and early 1980s. She believed that transvestism and (even more so) transsexualism were damaging mental disorders. Hence, the ‘real success stories’ were not those people who found belonging and understanding in the society and so felt emboldened, but those who ‘through membership have found it less imperative to dress’.[85] Pushing for legislative change ran directly contrary to this worldview. Nor, given her restrictive framework, did she agree that transsexuality was best treated through gender-affirming medical intervention. ‘I had heard of these preposterous “Gender Identity Clinics”’, she fumed, ‘but I didn’t know until I read [in a newspaper article] that there were surgeons prepared under the National Health (HEALTH – ye gods!) Service to castrate perfectly normal human beings.’[86] On another occasion, she claimed that ‘we will always be the sex that we were born’ and told the society’s transsexual membership that their best hope for happiness was to ‘accept their fate’.[87] Drawing on the precedent of the Gay Liberation Front of the early 1970s, Cleverly claimed that their alleged ‘arrogance and selfishness … [had] harmed their

cause’. The point was simple and dire: ‘So, if we are not careful, can ours.’[88]

Most of these disputes remained internal to the society. Moderation defined the predominant impression given to outsiders. Reporting on a society event in 1981, Polly Toynbee of the *Guardian* noted: ‘They [trans people] are not campaigning for anything in particular. Like gays and others, they are asking for understanding and acceptance in the outside world.’[89] As the 1980s beckoned, the Beaumont Society’s *de facto* role as the sole nationwide transvestite and transsexual organisation came into question due to the widening political chasms between its members – radical and moderate; transvestite and transsexual; younger and older. The keenly felt need for a greater plurality of organisations to cater for bifurcating political tendencies would shape ‘trans politics’, still in its infancy, into the final decades of the twentieth century. From the tensions endemic to this era – uncomfortable cohabitations followed by open disagreement and discursive as well as organisational balkanisation – there came, eventually, a widely accepted hierarchy of political priorities.

‘3 DIFFERENT TS GROUPS!’

The storms kicking up in the Beaumont Society did not rage in a vacuum. A handful of fresh initiatives and organisations with differing visions emerged in the 1970s. Many led nowhere, although the patchiness of the archival record for this period imposes analytical limitations. Christine Doyle, a medical correspondent for the *Observer* newspaper, reported in 1974 that there was ‘pressure from some psychiatrists for an enlightened society to allow some changes in the law’, and obliquely mentioned that there was ‘a campaign in 1971 to change the law for those who underwent [gender-affirming surgery]’ which ‘was not popular with MPs’.[90] This likely refers to an effort by Della Aleksander and her associates, calling themselves the Transex/Transsexual Liberation Group, to drum up support for trans law reform, beginning with Leo Abse MP.[91] Aleksander started a trans magazine titled *Two in One* in London in 1971,[92] and she was active in the wider

Women's Liberation Movement (WLM) in the 1970s. Several other trans people like Carol Riddell, Stephen Whittle, and Rachel Pollack also participated fully in both local and national WLM organisations and events, including, in Riddell's case, playing the keyboard at the national WLM conference in Edinburgh in 1974, while one Vikki Horsford and representatives of the Transsexual Action Organization (on which more below) had pieces published in the lesbian-separatist *Sappho* magazine in the mid-to-late 1970s.[93] One of the many new initiatives to hit the scene at this time, the Transvestite, Transsexual and Drag Queen group (TTDG) within the Gay Liberation Front, set out its aims and beliefs in a 1972 piece published in the GLF magazine *Come Together*. It said that 'about forty people' had been attending its meetings, and called for a Women's Liberation Movement that 'joyously includes all women', but this was short-lived and relatively parochial in terms of its influence.[94] Angela Mason, a lesbian activist who was in the GLF at this time, recalled in 1996 that Roz Kaveney, a leading member of the TTDG, 'felt very excluded in GLF'.[95] A similar fate was shared by *Gemini*, a magazine of the Leeds TV/TS Group that ran for just two issues in 1975 (the TV/TS Groups initiative began in the late 1960s and had many local branches).[96] Contributors to *Gemini* felt called to combat the 'loneliness' of the contemporary trans experience, and to 'embrace the general plight of those unhappy women and men who, by some accident at birth, find themselves at variance with the world'.[97] One article in the magazine's final issue claimed that transsexual people had something unique to contribute to other insurgent liberation campaigns because they were 'amongst the few people who are attempting to undermine the [gendered] role playing in our present society'.[98] At a 1976 academic conference on sexual and gender minority groups, sociologist Dave King dubbed *Gemini* 'the only major alternative' to the Beaumont Society if one wished to find applicable information and a tolerant community, saying that it 'resembled the more radical publications of other deviant groups, revealing an awareness of and a willingness to discuss the issues raised by the gay and women's movements'. King also

noted that prior endeavours to establish a national group specifically for transsexuals had ‘failed due to a lack of support’.[99]

Britain briefly had its own iteration of the US Transsexual Action Organization (TAO), which was founded in Los Angeles in 1970. The relationship between the two national branches seems to have been very distant, due in part, according to a 1976 *Gay News* piece, to a perception that the American branch placed an uncomfortably intense emphasis on occultic practices.[100] TAO-UK was described by historian Susan Stryker as ‘a short-lived group devoted to anti-sexism, anti-racism, and peace campaigns that also specifically sought the right of self-determined medical treatment for transsexual people’,[101] but it never came close to fulfilling its aspiration to be a central coordinating body. Stephen Whittle was involved with the group in the mid-1970s and reported in 1999 that it consisted of little more than ‘some headed paper … and a clear anarcho-transformative, transsexual-separatist agenda’.[102] If it truly was imbued with radical intentions, these did not manifest consistently in its literature. A letter sent to an enquirer in July 1976 specified that TAO was ‘a law-abiding group … trying to demonstrate that the T.S. is a normal, decent member of society so we do not approve of exhibitionism or anything which might get us a bad name’.[103] It described itself in a 1976 leaflet as ‘a national organization … open to all transsexuals … irrespective of their race, religion, politics or sexual orientation’, listing among its objectives ‘equal rights under law so that [female-to-male transsexuals] can have full legal rights as men and [male-to-female transsexuals] have full legal rights as women’. The dreaded birth certificate was noted as a major impediment to this vision. The most identifiably ‘radical’ passage in the leaflet was an expression of solidarity with ‘women, gays and transvestites’, hinting at an ideal of universal liberation.[104] The chronology of TAO’s demise is not entirely clear, but it was certainly defunct by the late 1970s.

In March 1974, Beaumont Society organiser June Willmott and the Leeds University TV/TS Group hosted a conference in Leeds that they billed as the ‘First National TV TS Conference’. This self-consciously historic event was attended by interested medical, legal, and lay parties, a

representative from the York University Chaplaincy, and a number of UK trans activists, including Julia Tonner, a UK TAO representative. The conference featured the first known use of the term ‘trans people’ as an inclusive demonym for all those who cross, blend, or reject gender boundaries (curiously rendered ‘trans.people’ in the proceedings – probably nothing more than a typographic error).[105] It is also interesting that the proceedings contain not a single reference to the *Corbett* v. *Corbett* case, Roger Ormrod, or April Ashley, still less any allusions to a period of wound-licking following a singular ‘disaster’ in 1970. That narrative had not yet solidified. Attendees instead waxed optimistic, even ebullient. They observed a notable increase in ‘sympathetic reporting’ on trans issues in the media,[106] including recent television features. One of these, the first episode of the BBC’s *Open Door* programme, which gave radical and marginal groups a self-hosted platform to convey their message to a national audience, aired on BBC 2 in June 1973 and centred around the Transex (or Transsexual) Liberation Group, including Della Aleksander, who co-produced the episode.[107] Speaking at the Leeds conference, Aleksander said:

> Nineteen seventy four has been called the year of the transsexual. So much is happening now to gain acceptance of crossing the sex border, either as a transvestite or as a transsexual or as a Sex Change. This conference unites all such and rejects petty differences between them as misplaced.[108]

In her rousing crescendo, Aleksander reminded attendees of the importance of the task ahead:

> For no great advancement can be possible until Man supersedes the sexual division, which holds him so totally in a thrall. Viewed thus then, the transvestite, the transsexual and the sex-change all serve this high goal and are valid and not a sterile aberrational contribution to the eventual coming of the Kingdom of God to this earth.[109]

Elizabeth Ferris hit the same soaring note with a ‘Provocative thought: A futuristic society based, not on sexual polarisation as now, but on a totally bisexual, androgynous idea’.[110] The conference featured a group discussion on ‘The legal and social status of the transsexual’, at which two ‘full time transsexuals’ were present, producing an overview of the possibilities then extant for gaining recognition in the form of adjusted documentation. As long as one obtained a written recommendation from a psychiatrist, it was noted that trans people could get National Insurance cards, National Health cards, tax returns, and driving licenses bearing their present name and gender identity. Some processes were even characterised as ‘straightforward’. As for the birth certificate, however, the story was not so promising:

> There is no way, at present, to obtain total amendment of a birth certificate to the new sex. After a long postoperative period it is believed possible to obtain an appendation, however this does not carry full legal rights, for example in the case of marriage.[111]

The tone of this section of the proceedings implies that the problems of birth certificates and marriage represented a significant but not prohibitive barrier to living happily as a trans person in the UK – and anyway, speakers like Aleksander and Ferris were preoccupied by a more transformative mission.

The Leeds conference gave voice to a radical impulse that had been brewing in trans discourses for some years, but it provided no solution to the chronic lack of organisational cohesiveness in trans politics. Two organisations emerged in the late 1970s and early 1980s to fill the void, albeit in different ways. Both were effectively offshoots of the Beaumont Society. The first, co-founded in 1979 by Alice Purnell and Judy Cousins, was the Self-Help Association for Transsexuals (SHAFT),[112] which attracted 180 members by April 1981[113] and 690 by February 1985.[114] No discussion of SHAFT is complete without comment being made on the unintentionally humorous name; indeed, it continued the tradition of UK

trans organisations having unfortunate abbreviations initiated by the 'BS', a subject on which Cousins herself commented in 1987: 'Yes, I'm perfectly well aware of the vulgar possibilities in the name … I intended those initials to stand for a shaft of light in a dark world. And they still do.'[115] This group was advertised to Beaumont Society members as a space for 'quiet self-help' rather than public activism, an approach that would, it was hoped, enable it to 'survive where other more radical TV/TS groups have led a very short life'. SHAFT's deliberately moderate positioning was driven home with the comment that 'Most transsexuals just want to live their lives quietly, merging into the general fabric of society.'[116] Moderation did not mean resignation, however. In 1985, Cousins said that a driving aim of SHAFT was 'to help change the legal position of transsexuals in this country' – a bureaucratic objective on its face, but one that was often wrapped in the language of religious faith.[117] Cousins described the organisation as a 'free church' which encompassed all those who 'believe' themselves to be transsexual,[118] and the first edition of SHAFT's newsletter in 1980 was headed with the Christian Serenity Prayer, relabelled a 'prayer for transsexuals', asking that God grant transsexuals 'the serenity to accept the things [they] cannot change, the courage to change the things [they] can, and the wisdom to know the difference'.[119] Founded on pragmatism and a promise to maintain a low profile for its members, SHAFT targeted relatively minor adjustments to official procedures that it felt were realistically achievable. In the final months of 1979, therefore, it sent letters to the DHSS requesting that transsexual women be allowed to claim retirement pensions at the age of 60 (the female retirement age at the time) because 'the ruling [from the National Insurance Commissioners] that transsexuals receive their pensions at an age according to their recorded sex at birth will often be traumatic and is most certainly inequitable'.[120] Even these limited goals proved elusive, as the department responded dryly that 'the Government have no plans for amending the law to allow persons in your situation' to be treated differently to others whose legal sex was male.[121] The general indisposition of those in power to make the slightest regulatory or legislative change meant that, in a sense, it did not much

matter whether trans people adopted a ‘moderate’ or ‘radical’ approach, as the tangible outcome was the same either way.

SHAFT was not insensitive to the difficult situations in which trans people found themselves; as an organisation run *by* and *for* transsexual people, it could not afford to be. However, its primary arguments for change were generally premised on individual trans people’s ability to maintain a respectable façade, and it sought to facilitate broad cultural shifts rather than to force the issue with splashy legislative milestones. In *A Handbook for Male to Female Transsexuals and Those Concerned with Their Care and Treatment*, published by SHAFT in 1981, the situation for the average transsexual as regards employment, marriage, and the justice system was described as mixed but onerous. On employment, especially for ‘pre-operative’ transsexuals, the *Handbook* declared it ‘useless to attempt to stand on your legal “rights” … [because] it is a very easy matter for hostile workmates or employers to render your position quite intolerable’, leaving the transsexual person ‘vulnerable’. A silver lining was found in the observation that ‘With changed documents and a reference in your new name, there is no particular reason why a prospective employer should be told of your (pre-operative) transsexual status.’ This, of course, depended on ‘passing’ as one’s stated gender. The ability to do so in employment was dubbed ‘an acid test of your acceptability to society at large’[122] – that is, a trans person’s day-to-day dignity and safety depended more on personal tactfulness than on law. The position of ‘post-operative’ transsexuals was not much better. ‘Under present British law,’ the *Handbook* continued, ‘the post-operative male-to-female transsexual cannot have her birth certificate altered to indicate that she was born a girl.’ This had four main consequences: (1) a trans woman could not get married to ‘a biological male’, nor a trans man to a cis woman; (2) ‘A [transsexual] sentenced to a prison term is sent to a male prison hospital, and may … have her hormone treatment discontinued’; (3) a transsexual ‘is not entitled to a State Pension until she reaches the age of 65’; and (4) ‘On any life insurance proposal form the transsexual status must be revealed.’ In more general terms, the booklet noted another problem stemming from Sections 5 and 7 of the

Public Order Act 1936, under which threatening, abusive, or insulting behaviour in a public place could lead to police intervention. SHAFT observed that 'this [Act] has since become a convenient piece of legislation for the police officer who can think of nothing else' when faced with a trans person in a public place.[123] As for solutions, the *Handbook* appealed to the moral sensitivities of its cisgender readers:

> What is required is recognition that, despite theoretical arguments of flawless logic to the contrary, to refuse to issue a replacement birth certificate goes beyond the bounds of reason. For those who have already suffered so much, common humanity demands an end to what is, in effect, a denial of human rights. It will not come quickly but it will come eventually, if we work for it.[124]

Some members did express comparatively 'radical' views. In a four-page article titled 'The anomalous injustices in transsexual legal status' in the February 1981 newsletter, Della (Aleksander) dubbed trans people's position a form of 'Second class citizenship' defined by incorrect documentation, incorrect access to pensions, and an inability to marry. Insular complaining would not fix these problems. 'Unless at least some of us are willing to sacrifice ourselves legitimately in our cause,' she suggested, 'we really have only ourselves to thank if we remain the least advantaged section of the community.' She went on:

> Perhaps a fast to the death, or naked "women born men" chained to the railings of Parliament Square bearing the legend about their necks "IS THIS A MAN?" might be over dramatic; but we will only succeed as our nature and consciences dictate in this quite legitimate struggle for our rights.' Slightly bizarrely, the piece ended with a quote from L. Ron Hubbard, the founder of Scientology: 'One cannot simply vanish in life, one cannot just become a nothingness. And the wrong way to handle suppression is to be low key and hope one isn't noticed. This is simply agreement with the suppressive person or society.[125]

The frustration that comes from speaking softly into the closed ears of the powerful was starting to show among other members, too. A template letter to MPs in April 1982 lamented that 'the Government is indifferent to the problems that effect such a small minority group'.[126] SHAFT remained circumspect. Despite complaining that only seven or eight members seemed to have sent the letter, a leadership editorial in August 1982 sought to provide reassurance, noting that while progress had indeed been slow:

> we do have a damn sight more than most and infinitely more than all those pre-1950. Since 1950 too the climate of opinion has swung significantly in our favour and even ten years ago the subject was wrapped in mystery and false assumptions.[127]

With patience, they believed, concrete progress would come eventually. Others were less inclined to wait for the winds to turn.

At the very end of her nuclear 1979 polemic in the *Beaumont Bulletin*, Hazel notified fellow Beaumont members of her intention to start a 'feminist TS discussion group'.[128] Little trace remains of this precursor group's existence, but it must have been founded in 1979 or (less likely) 1980, as the Feminist Transsexual Discussion Group had mutated by February 1981 into the Transsexual Action Group (TAG), for which we have a more extensive record.[129] Alice Purnell recalled in 1983 that '[f]our years ago' she had founded Intergroup, a forum 'intended to bring together the work of the various transvestite and transsexual Societies in the United Kingdom', including TAG – perhaps, given the chronology, in its prior incarnation as the Discussion Group.[130] An advertisement introducing TAG appeared in the February 1981 edition of SHAFT's newsletter, explaining that it had been conceived as a specifically feminist group, but that as it developed, its scope had 'widened so that we are now less stringent in our exclusion of non-feminist transsexuals', although it assured prospective members of a feminist bent that TAG remained 'dedicated to the demands of the women's movement, and aim[ed] to develop a better understanding

of transsexualism in the feminist and gay movements'. The ad also stated that TAG was:

> very conscious of the power of the mass media to shape our lives, and we feel it is essential that transsexual organisations like TAG and SHAFT should find their voices, and be able to present a more honest, and less sensational picture of transsexualism than has previously been evident in the press.[131]

Though rhetorically less cautious than most SHAFT members, TAG members were not averse to appealing to notions of respectability in pursuit of their aims. As the group's leaders argued in a pamphlet published in the early 1980s: 'Most transsexuals pass unrecognised in society, do not wish to attract attention to their transsexualism, and wish to live ordinary lives. The few who have achieved spectacular publicity are not typical or representative of transsexuals.' TAG's stated objectives also resembled those of SHAFT. The same pamphlet claimed that the law as it stood 'reflects the most conservative and out of date views in our society today', and declared the group's intention to 'campaign for equal rights, and particularly the right to change birth certificates'.[132] One of TAG's aborted projects was to produce a book exploring the diversity of trans identities, 'basically an attempt to destroy the myth of an "Identikit" TS created by the media and [anti-trans author] Janice Raymond'.[133]

As a feminist-rooted organisation with Marxist influences, TAG paid closer attention than other groups to the role of class in trans people's lives. One member, Donna, argued in 1982:

> while TSs may generally derive from a cross-section of society, it seems to be a point to emphasise that those TSs from the lower reaches of the class order have infinitely more difficulty in achieving self-recognition, understanding, acceptance of their TS condition and a subsequent trouble-free self-management in the face of it.[134]

Members of TAG also threw their support behind the idea of appealing to European institutions, particularly the European Court of Human Rights. Jamie penned an article to this effect later in 1982 in response to a BBC *Out of Court* documentary about trans man Nicholas Mason, who announced plans to bring forward exactly such a case in order to force the UK Government to respect trans people's rights to marriage and privacy 'Nicholas Mason' was in fact Mark Rees, whose case is discussed later in this chapter).[135]

TAG's impact on the overall trajectory of trans politics was limited by its brief lifespan. Hazel announced her retirement from the organisation at the end of 1982, wistfully expressing her regret that 'TAG has never quite worked out as I had wanted.' The problem, as she saw it, was simple: 'There just aren't enough TSs around who agree with feminism.' This had particularly 'doomed' TAG's primordial form, the 'less ambitious, more justifiable' Transsexual Feminist Discussion Group, to 'a tiny membership',[136] while the organisation's new incarnation, in trying to expand its appeal, was never able to find the same unity of purpose that made the Discussion Group feel unique. In Hazel's absence, TAG's members could not quite agree on the rump organisation's future – i.e., whether it should once more pursue radical purity or continue down the path of nonideological compromise, and equally, whether it should emphasise theoretical arguments or seek to 'put a little more *action*' into the so-named Action Group.[137] Most pressingly, the question was asked: were there too many trans groups, or too few? A member who called herself Helen of Troy mused on this subject:

> The more groups there are, the sooner the establishment will realise that it is surrounded on all sides completely with its back to the wall. Remember that many splinter groups are harder to smash than one vulnerable target. The Revolution will only come full circle when we tear up the blank cheque of capitalist oppression – whatever the cost – and a smokescreen of bickering and bitching – I mean radical personal appraisal, will totally confuse the enemy. It's about time we realised this.

> We have to fight from the position of strength which comes from self knowledge and stand together on our own two feet.[138]

Another member, Joan, felt exhausted with the chronic splintering and in-fighting in the movement, and wished to remind members: 'United we stand, divided we fall.'[139] Emerging as the group's new leader, Angela felt that TAG had to 'put a little more action into it and a little less theoretical argument. The world owes us nothing and if we want a better deal we must be prepared to do a little work for it.'[140] Soon after this, the once-so-confident TAG was no more, with October 1982 seeing the final issue of its newsletter.[141] The last page of this swansong edition featured this farewell message reflecting on the group's struggles and errors:

> the mistake TAG made was to move right away from its original objectives, attempting to be another TS group, almost as if to 'rival' SHAFT. Even our leaflet, radical though it may appear to some, represented a compromise, a watering-down of original intentions. Now at last, by 'ruthlessly' shifting TAG back to its original concept (& inevitably losing the majority of members), will TAG become an ideologically consistent group with a sense of direction. To us, Feminism is crucial to our own concepts of being women. So henceforth, TAG becomes a group strictly for TSs sympathetic [to] feminism. Will you be in that group?[142]

It would be some time before another explicitly feminist trans organisation captured as much attention, but that is not to say that TAG had no impact at all. Its achievements are more readily visible in the Beaumont Society from which it emerged than in the splinter group itself. Hazel's incendiary letter in 1979 accelerated the long-running conversation in the society over its political role and its exclusion of gay and lesbian people. As discussed above, there were plenty of negative reactions to Hazel's ideas. A member by the name of Sharon, for one, condemned her 'radical, more like hysterical views', including the proposed inclusion of gay people ('high-

strung, neurotic, vindictive individuals', in Sharon's words), and she warned that entertaining them would 'alienate the very people for whom the BS was founded'.[143] Others recognised the situation to be unsustainable and wished for the society to become more politically ambitious, believing that it was only by forcing trans people's needs into the national political zeitgeist that the society would contribute to 'the "eventual" recognition and understanding that TV's [*sic*] need'.[144]

Beaumont Society pamphlets from the period suggest that the organisation was indeed becoming more assertive in demanding meaningful change sooner rather than later. One pamphlet, titled *Legal Implications Associated with Transvestism* (*c.* 1980), made vague observations concerning the possible police interference trans people could face, and the administrative options they had available should they desire to change their official name.[145] Just a few years later, in *Transvestism: Some Questions and Answers* (1982), the society was more specific, identifying the Justices of the Peace Act (1361) and the Sexual Offences Act (1967) as two pieces of legislation that bedevilled trans people by providing the police with a pretence for arrest. This leaflet argued: 'legal sanctions are only useful, and appropriate, in cases involving public decency or interference with others. Behaviour which does not interfere with other people should fall outside the proper scope of the law.'[146] A companion pamphlet, titled *Transsexualism: Some Questions and Answers* (1982), noted that one could already update one's name and gender details on National Insurance cards, income tax documents, driving licenses, passports and bank accounts, with the only major outlier being the birth certificate. However, the pamphlet still embodied the society's continuing reliance on a form of respectability politics, suggesting that a letter from a psychiatrist should be enough to prevent police interference in public as long as the trans person was 'behaving properly', and declaring that such interference was unlikely anyway as transsexual people 'usually lead quiet lives without drawing attention to themselves'.[147] It was not yet perceived to be realistic to premise the society's political objectives on breaking free of that enforced subterfuge.

The trend towards explicit political activism was accompanied by a gradual shift towards gay inclusion. Alice Purnell, as the society's president, published a sort of manifesto in the March/April 1983 edition of the *Bulletin* announcing the end of the ban on gay members. She expressed regret that:

> a naïve exclusion of homosexuals in the Beaumont Society has aroused hostility from Gay News, from some liberated transvestites, and from London Friend [a local advocacy group]. It is absurd and childish to think that a transvestite, who is not homosexual, will in some way be 'corrupted' by a homosexual member.

Purnell also addressed the need to develop the group's political strategy, although on this issue she was more reserved, writing:

> I deplore hypocrisy, and any minority has no right to impose its view. … If this is the case then we will never be integrated into society as acceptable. We would not deserve to be considered fair ourselves, and could hardly expect the public at large to feel we were other than a group of cranks. So let's grow up and modernise our literature while retaining our integrity and growing in tolerance. That is, after all, what we ourselves seek.[148]

Trans political thought was still defined by deep-set differences in language and wider political affiliations, but the three main national trans groups – the Beaumont Society, SHAFT, and TAG – were beginning to find something of an equilibrium in the early 1980s. Co-ordinating through Purnell's Intergroup, they were converging upon the principle of gay inclusion, the importance of mass awareness-raising campaigns, and the need to find permanent *legal* remedies to trans people's problems. The shift was not universal or linear, of course, and there was still the raw material for fiery disunity to break out. One catalyst came in 1981 and 1982 when one Romana began sending out advertisements to members of trans

community groups for an upcoming conference that she was organising in Birmingham.

In TAG's newsletter, Romana outlined the principles behind the conference: (1) that 'there should be no discrimination directed against us in places of work by law'; 2) that 'TSs who have had sex change operations and those undergoing this change should have the right to privacy just as any other citizen has and not be hounded by the press if this is against their wishes'; (3) that 'TSs who are sent to prison should have the right to continue their treatment and be able to request segregation from other prisoners, but permitted to association with other prisoners who are TS and should have help and assistance given them'; (4) that 'parliament be pressurised into introducing a bill of rights to give TSs protection in the law to make it an offence to discriminate against TSs in any form, covering their daily lives'; and (5) that 'TSs who wish to adopt a baby should be given this right under law.'[149] In her letter to SHAFT, Romana argued that trans people had 'divorced themselves from the political arena' for too long. Liberation would not come by 'burying our heads in the sand, but by standing up and being prepared to be counted'. Only by 'uniting together and struggling together' would 'our democratic rights and eventually our freedom to lead the kind of lives we want to lead' be realised.[150]

With some minor flourishes, this is one of the earliest holistic expressions of the aims of the politics of recognition as it exists in our present trans political discourse – i.e., equal access to all areas of civic and social life with the protection of statutes that spell out specialised rights. Under the Birmingham rubric, trans people would be specifically protected in law via anti-discrimination protections and a 'bill of rights'; they would be guarded by the state from hostile interference in their private lives; they would be able to adopt children (an issue that barely registered in the newsletters over the prior decade); and they would be entitled to continue with their medical treatments if they were incarcerated. No longer was the bar set at the mere enjoyment of an unremarkable, 'ordinary' life. No longer was the state invited to think of trans people as poor aberrant sufferers; rather, the state was now to be invested, whether it liked it or not, with the

responsibility to proactively protect and promote its trans populace's wellbeing. This was a bold statement of intent from a community that, as yet, had made no concrete progress towards restoring the right to marriage, let alone formalising their place in other realms of law. Though it later came to be associated with moderate reformism and myopic forms of respectability politics, the emergent recognition-based activism was the young pretender in the 1980s, the most radical and ambitious game in town. It promised not simply to reverse the effects of the *Corbett* v. *Corbett* ruling, but dared to imagine a new world in which trans rights would no longer be subject to the whims of bureaucrats or the justice system, nor rest on the normative respectability of individual trans people. Robust legal recognition promised to unleash the pluriform possibilities of trans existence by removing the need to skulk around, heads down and shoulders high, in constant fear of being mistreated by the wrong police officer, the wrong judge, or the wrong civil servant – such was the hope, at least. Recognition meant dignity; security; freedom; *respect*. And, insofar as it departed from the political and social cautiousness so evident in the Beaumont Society and SHAFT, recognition was not the fulfilment of, but an *alternative to,* bland assimilation.

Indeed, Romana's intervention drew criticism for being *too* ambitious, even from those belonging to 'radical' political traditions. Some TAG members condemned Romana's 'weird ideas' as 'idiocy' in the group's newsletter. Der wrote:

> Yes, I do have to face the problems she enumerates. … But to apply Marxist dogma out of context, to use rabid and emotive slogans, to seriously act upon some paranoid fantasy of overwhelming conspiracy – such actions only alienate the majority of people with whom we have to live.

Der preferred not to rock the boat by 'imposing our ideas and demands' because, for her, the goal was simply to be 'an ordinary, fully participating member of society'.[151] Others felt the Birmingham rubric was the *wrong*

sort of radical. SHAFT member Terri (likely Rachel/Terri Webb, whom we will discuss at length in the next chapter) described herself as a ‘Marxist who is active in the Labour Party and the Trade Union Movement’, and she felt that trans people ‘should campaign within not outside of established organisations to show how normal we are. To organise a conference specifically for T.S. persons is to place ourselves outside of society and, therefore, to reinforce inbuilt prejudices which unfortunately exist’. The best locales for trans activism, in Terri’s view, were ‘the traditional organisations of the working class’.[152] SHAFT’s leaders, meanwhile, declared that ‘as an Association we are taking no part and do not wish SHAFT to be linked to the conference in any way’, warning that ‘this conference will prove to be a retrograde step or, at best, a non-event’.[153] As it happened, the conference, held on 4 April 1982, did not have the long-term impact that Romana and her critics likely anticipated. It was noted in the TAG newsletter that the Campaign for Transsexual Freedom (CTF) was founded after the conference, but also that ‘it is legitimate to ask whether there is a need for yet another organisation’. The fact that the CTF had little impact, if any, is perhaps the best answer to this question. To the contrary, there seemed ‘a crying need for activists to come together to plan a coherent and long-term campaign’.[154] Not long before she left TAG, Hazel could only comment: ‘How can transsexuals – the tiniest [of] minorities – campaign effectively and sensibly? … I wonder if the powers that be will be well disposed towards TSs if they keep getting letters from 3 different TS groups!’[155] Trans politics in the early 1980s was awash with ideas, organisationally rich compared to past decades, and blessed with scores of innovative minds and energetic bodies. What it lacked was a common strategy to gain the attention of influential figures in media and politics. The remainder of the 1980s witnessed the emergence of just such a strategy; and it came not in the form of letters to MPs nor cooperation with trade unions nor the founding of more groups, but rather in the form of court filings, first in the UK and then in Europe.

PETITIONING EUROPE

There was a building sense that it might be necessary to go above or around the UK Government to overturn *Corbett* v. *Corbett* and improve trans people's material conditions, and as a result the European Court of Human Rights (ECtHR) became a prime destination for litigants whose cases had fallen in UK courts. The idea that national governments could not be relied upon to deal fairly with instances of changed gender status permeated trans advocacy across Western Europe at this time – in 2018, a European Commission report noted that 'Since the mid-1980s, much of the ECtHR's jurisprudence in the sphere of trans rights has focused on legal gender recognition.'[156] Opinions in the UK varied as to how realistic it might be to expect outside help – one trans person writing to the *Guardian* in July 1981, for instance, despaired that 'no UN declaration will ever safeguard *our* humanity or self-respect'[157] – but the ECtHR at least seemed a more fruitful avenue than the United Nations. 'The European Court', judged David Pannick, counsel to trans woman Caroline Cossey during her case at the ECtHR (on which more below), 'is more likely to take a rather more humane approach' compared to the UK Government, which had 'barely attempted the task' of protecting its trans citizenry.[158] Meanwhile, James Morton, a solicitor, held out hope that a favourable ruling by the ECtHR in a trans case 'can be the basis for a change in attitude and one which will bring the English courts more in line with our European partners and many other countries'.[159] As a signatory to the European Convention on Human Rights, the UK is formally subject to its rulings, although the ECtHR's impact is sometimes lessened by its tendency to be deferential to the different ways that the Convention articles might be interpreted in light of each nation's peculiar legal system, a consideration called the 'margin of appreciation'. Some legal experts argue that the margin of appreciation is often 'interpreted [by the court] in a way that can override equality considerations', with the interests of the marginalised, including trans people, often subordinated to the freedom of states to decide on the application of the Convention articles.[160] In other words, it would be difficult to convince the ECtHR to override the UK's disinclination towards trans law reform – that is, assuming one could even get a case in front of the

court at all. One first has to convince the European *Commission* on Human Rights that a case should be forwarded to the court for litigation. April Ashley's challenge, launched in 1980 with support from the National Council for Civil Liberties (now known as Liberty), garnered some publicity but never reached the court.[161]

The experience of Mark Rees, a trans man with dashed hopes of entering the Anglican clergy, helps demonstrate why the ECtHR became a favoured battleground for trans people. In 1972, Rees began a personal campaign for respect and recognition when he contacted his MP, Renée Short (Labour), about his predicament, principally his inability to change the gender marker on his birth certificate and his consequent involuntary outing and inability to marry a woman. Short and several other MPs to whom Rees and his friends wrote then got in touch with the Home Office and the Registrar General, but to no avail;[162] nor did this effort garner enough support in the House of Commons to justify introducing a private member's bill. Seeking another recourse, Rees contacted Liberty in 1979, and with its help put together a formal request for an updated birth certificate in 1980. When this application was rejected by the UK Government, Rees unsuccessfully requested aid from the Law Society for a legal challenge.[163] With all domestic doors appearing to be sealed tight, Rees took his case to the European Commission on Human Rights. His complaint was that UK law deprived him, as a trans man, of his Convention-enshrined human rights, specifically his right to be shielded from 'inhuman or degrading treatment' (Article 3), his right to privacy (Article 8), and his right to marriage and family life (Article 12). The legal firm representing Rees, Winstanley-Burgess Solicitors, having discussed the matter with their client 'and with other transsexuals', submitted a proposed 'friendly settlement' to the Commission in August 1984, calling on the UK to 'enact legislation' to establish that transsexuals 'should, subject to their having received sex/gender reassignment surgery, be treated in all respects as of their assumed sex/gender', entailing the adoption of 'provisions for amending the birth registration system'.[164] The UK rejected the settlement and tried to prevent the case from reaching the court. In filings with the

Commission, representatives for the government argued that the sex markers in the UK birth register and on UK birth certificates were intended under the Births and Deaths Registration Act of 1953 to be ‘records of facts at the time of the birth’, rather than fluid categories that could be adjusted to take into account later changes.[165] They also contended that ‘express recognition’ had already been granted to ‘the applicant’s new sexual identity’ through the issuance of various official documents, such as a driving license, bearing the title ‘Mr’, thereby ‘reduc[ing] to a considerable extent the opportunity for third persons to obtain knowledge of the change which had occurred’.[166] Finally, they suggested that it was in the ‘public or general interest’ to refuse to alter birth certificates because doing this would allegedly scupper their function in ‘the statistical study of population and its growth’.[167] Having considered the provided evidence, the Commission came to a unanimous decision in December 1984:

> [T]he failure of the United Kingdom to contemplate measures which would make it possible to take into account in the applicant’s civil status of the changes which have lawfully occurred [i.e., ‘sex-reassignment’ surgery and altered personal documents], amounts to a veritable failure to recognise the respect due to his private life within the meaning of Art 8 (1) of the Convention.[168]

As for Article 12, the Commission unanimously agreed that no breach had taken place, although its members offered two different reasons for this. Five members felt that if the breach of Article 8 were to be resolved and Rees were allowed to change his officially recognised gender, he would by virtue of that fact gain access to the right to marry a woman. Two members, conversely, argued that marriage was premised upon the theoretical ability of its participants to procreate, and that since other couples (such as close relatives or, as in some Convention states, infertile people) could be denied marriage on similar grounds, the UK should not be made to distort ‘the essential nature of marriage and its social purpose’ simply to accommodate a small minority.[169] These misgivings notwithstanding, the Commission was

satisfied that Rees's case should pass this first hurdle and forwarded it (minus the complaint regarding Article 3, which it did not consider to have been sufficiently substantiated) to the ECtHR. Rees and the government thus sent memorials of evidence to the ECtHR in 1985. Rees's argument was that the state's implied recognition of his position via the provision of gender-affirming services on the National Health Service could not be squared with the continued lack of documentary recognition. As he told a journalist:

> The British Government's position is very strange. In many ways it is compassionate toward transsexualism. It accepts it as a medically recognised condition, and even enables us to undergo the necessary surgical and hormonal treatment under the NHS. But then having given us the treatment which … enables us to live convincingly in that role, it proceeds to deny us the one thing vital to legal recognition and secure integration into society. It refuses to allow any amendment to the birth certificate to match the new sex.[170]

The foundational reason for the government's opposition to changing Rees's entry in the birth register was that the relevant legislation made no provision for such a change based on later surgical or social developments. Specifically, UK legal representatives argued that the birth register was never meant to reflect *current* reality, but to record observations made at birth, and further contended that the UK's implied recognition of the reality of gender dysphoria, as evident in its permitting and funding gender-affirming treatments through the NHS, was quite beneficent enough:

> [T]here is no justification for imposing on a State which has both permitted and facilitated surgical procedures to allow an individual to live in the opposite gender role a heavier burden to afford "legal recognition" to the applicant's changed sexual identity than that imposed on a State which prohibits or refuses facilities for such procedures.[171]

This first foray into Europe disintegrated on the steep cliffs of institutional inertia, with the court, in keeping with the 'margin of appreciation', being more receptive to the government's arguments than to Rees's. On 17 October 1986, it ruled that there had been no violation of Article 8, believing that it would be unreasonable to 'require a new type of documentation showing and constituting proof of current civil status' in a jurisdiction that had no precedent for such, especially as this would 'have important administrative consequences and would impose new duties on the rest of the population'. Nor, in the court's view, had there been a violation of Article 12, as it believed that the right to marry applied only to 'traditional marriage between persons of opposite biological sex'.[172] Those who had supported Rees in his campaign, like the researcher and archivist of trans subcultures Richard Ekins, regarded the ECtHR's decision as 'very disappointing',[173] but not wholly surprising. Ekins had earlier that same year identified one of the contributing factors to the eventual failure of the case in a talk at a symposium on the Psycholegal Aspects of Sexual Problems in Tel Aviv, Israel. He pointed out that while the Commission's initial decision – that there *had* been a violation of Article 8 – should give Rees 'grounds for cautious optimism', there was still a fundamental epistemological problem:

> The difficulties stem, I think, from the fact that the Commissioners, while [putatively] enabling a change of sex through recognition of altered civil status, have avoided adjudication on the precise medical and psychological status of sex-changing. It is therefore unclear what precisely the recognition of change of status is marking. Is it simply a recognition of the de facto sex reassignment procedures that have taken place? Or is it an endorsement of the view that the surgical procedures undergone, in themselves had the effect of changing the applicant's sex?[174]

The introduction of a new system for altering the birth register was presented by Rees's side as pursuant to the goal of improving trans people's

standard of living, but there remained the question of what a changed sex marker was really supposed to signify. To rephrase Ekins's insights, we might structure the problem like so: Would the amendment simply confirm in law what was already the case in fact (that Rees is a man); or would it be a compassionate concession by the government to a person suffering from a derangement of the mind? If the former, then what should be the criteria for discerning the facts in future cases? If the latter, then would the benefits accrued to trans people by this act of charity outweigh the rather vague 'new duties', as the court put it, that would be placed on 'the rest of the population'?

Rees's case incorporated elements of both logics. His enumeration of proofs attesting to his surgical and social transitions presented an ultimatum to the court, which could either acknowledge that Rees's continued legal status as a woman was an absurdity, or else uphold the status quo even though Rees would not be mistaken on sight as a woman by civil servants or employers. At the same time, the emphasis he put on transsexuality being a 'recognised medical condition' which was rare, poorly understood by the general population, and liable to cause great mental distress suggested an affective appeal for generosity towards the afflicted. The first argument centred on the material significance of his changed sexual characteristics and the realness of his gender in the eyes of his peers, potentially implying that these factors could in future be criteria for decisions in his and similar cases. The second argument hinged on an assumption that recognition would itself be an almost quasi-medical treatment in that it would help to alleviate Rees's gender dysphoria. Taken as a whole, the argument came across as ambiguous. While both logics pointed to the same desired outcome – a mechanism for altering sex markers – there were conceptual tensions between them, the shared word 'recognition' being insufficient as an adhesive. The UK Government responded to this multivalent claim by changing the subject and not substantively responding to either point. Instead, it reasserted its right as a sovereign authority to enforce the original purpose of the birth register as defined by the 1953 Act, and claimed that adding exception clauses was contrary to the public interest. The actual

consequences of the law for Rees and other trans people, ostensibly the crux of the case, were waved away as side effects of a system that was working as intended.

Another case in the ECtHR followed soon after, the applicant this time being Caroline Cossey, a model, actor, and 'Bond girl'. Cossey's case was in many ways a re-run of Rees's, but with some of its defining frequencies turned up to eleven, and with a far greater emphasis on the part of the applicant's team on the notion that changing the sex marker on a birth register was a necessary *de jure* reflection of what was already true in fact. Cossey's 97-page memorial was more expansive than Rees's in its provision of evidence concerning the details of Cossey's transition, the state of medical opinion on the aetiology of gender dysphoria, and the capacity for surgical and hormonal interventions to change the sex of a person – at least by the standards of the superficial observational tests upon which the birth register had hitherto depended. It was also more strident in highlighting the UK's anomalous status on this matter when compared with other countries, especially in Western Europe.[175] Conversely, the UK Government's surety in the strength of its case was highlighted by the minimal effort it put into its own memorial, large sections of which were exact replicas of the memorial in Rees's case. Take the following example:

> Although, for the purposes of this Memorial, the Government will refer to the applicant in the [feminine/masculine], this is not to be regarded as an admission by the Government that the applicant is of the [female/male] sex or that the sex of an individual, as determined at birth, is capable of being changed by means of surgical or other procedures.[176]

Replication is not unusual in legal documents, but the thorough unoriginality of the sixteen-page memorial projected a breezy confidence, and – despite the government's lead counsel apparently having warned that it 'might have difficulty in defending current practice before the European Court of Human Rights'[177] – a confidence well placed. The ECtHR ruled in 1990 that no violations of Articles 8 or 12 had taken place,[178] ending

another chapter in the history of the campaign for trans law reform. Cossey struck a lonely figure in the aftermath, telling the media: ‘Seeking recognition as a woman has been my downfall.’[179]

Trans litigants stood zero for two as the 1980s closed. Even so, Rees’s and Cossey’s cases performed a vital function, attracting far greater attention from the media than any other episode in trans legal history since the ‘disaster’ of 1970. The political and cultural battlelines that defined later confrontations were inching into view as a direct result of the intrigue created by these two cases. Throughout the 1980s, the most consistent mainstream source for updates on the progression of trans litigation in the ECtHR was the *Guardian*. The paper maintained lines of communication with leading figures in the trans activist world, including Judy Cousins, president of SHAFT, whose views were actively sought on matters relating to trans people.[180] The *Times* typically sided with the UK Government in its own reporting on the cases, though more, it seems, out of an attachment to the convenience and familiarity of the status quo than out of studied ideological opposition. It declared in an editorial in the aftermath of the *Rees* ruling that documentation reforms for trans people would ‘impose new duties on the rest of the population’ insofar as they would necessitate new administrative and social practices,[181] but this was simply lifted from the court’s own reasoning and no detail was given. There was as yet no hint of the apocalypticism that would colour anti-trans coverage in later decades. Similarly, Nigella Lawson, a columnist for the *Evening Standard* who would go on to express a variety of anti-trans beliefs later in the 1990s, greeted the *Cossey* ruling with a complicated mix of sympathy and scepticism. In an October 1990 opinion piece, Lawson acknowledged that, although she did not consider Cossey a real woman, it was ‘cruel and illogical’ for the state to facilitate Cossey’s gender-affirming surgeries only to then ‘disallow its results’ by failing to offer her documentation that aligned with her gendered presentation. Lawson argued that the ‘recognition’ that trans people were seeking was in truth no more than the recognition that ‘all people’ want and deserve. ‘If two people wish to have their relationship formalised’, she concluded, ‘let them, for God’s sake.’[182]

In activist circles, too, fruitful allegiances were forming and gaps in communal solidarity were being identified. After Rees's complaint was dismissed, SHAFT told the *Guardian* that his relatively high-profile 'test case' had 'at least drawn more support towards their campaign, particularly from MPs', including Liberal Democrat Alex Carlile and several Conservatives.[183] Carlile would go on to introduce the first attempt at gender recognition reform in the House of Commons in 1996. All was not well, however, as the structural failures endemic to trans politics wore on Rees. A sympathetic profile of him in the gay magazine *GQ* tellingly chastised the 'female-to-male' community for its perceived insularity and elitism, describing a hierarchical social dynamic 'filigreed with its own politics and snobbery'.[184] Behind the scenes, SHAFT's role and conduct was also being questioned. Rees told his long-time friend Ekins in December 1986 that he was 'somewhat disenchanted with SHAFT', opining that if the organisation could muster no more than 'a few kind words in the Newsletter … then I am wasting my time hoping for tangible signs of support'. Although Rees's affectionately titled 'fan club' had been active in sending letters of support to MPs, he characterised his ordeal as 'a lonely battle', feeling there was no point in his 'carrying the torch' for some abstract phantasm of a broader 'community' if that spirit failed to materialise when needed. After all, he wrote, 'It's difficult to form a pressure group … if one doesn't know who ones [*sic*] fellow-sufferers are.' The fractal nature of the trans 'community' and its apparent inability to come together when it mattered caused Rees to ponder questions of strategy: 'I cannot help wondering if we might be better advised to lobby for our change within the context of [other social reforms], rather than as a separate issue.'[185] This dissatisfaction with the inadequacy of what had gone before potently informed the trajectory of trans activism as it developed into the 1990s, when Rees would again play a defining role.

2

The Act (1990–2004)

It is a well-worn cliché, though not an entirely misleading one, to say that the 1990s marked tectonic shifts in politics, culture, and technology that cascaded through every social strata, and so it is perhaps appropriate that this decade also saw ‘an explosion of activity and major milestones in the establishment of rights’ for trans people.[1] In 1996, Stephen Whittle exclaimed of the changing shape of trans activism:

> [T]he 1990’s [*sic*] has seen the domain of operation move from a local system that was disparate, and which often could simply not exist because of geographical constraints, and a social hierarchy which emphasised difference in interests, to a nationwide and international response mechanism that encompasses the parts. The [internet] has been the agent of this change.[2]

The UK’s prior nexus of small trans support-cum-lobby groups with no central nervous system gave way to something more like a singular ‘campaign’, with clear objectives and consistent lines of communication. ‘Recognition’ for trans people came to be more solidly associated with the specific desire to change one’s legal gender, while new dedicated campaign organisations accelerated the convergence of political energy around common organs, producing in the course of time an ossified message. The popularisation of ‘transgender’ as a category of identity covering those who cross, mix, or reject gender boundaries but do not necessarily seek medical intervention also widened the scope for trans communal consciousness.[3] A

sense of mission was bubbling. All signs pointed to a breakthrough. Of course, that is not to say that all dissent evaporated under the shine of Mission Recognition at its apogee. Recognition for one group often meant more alienation and mis-recognition for others, and intimate proximity to power catalysed in some trans minds a chronic insensitivity to the life experiences of those living at the intersections of marginality. Mission Recognition superimposed its own metrics for 'success' rooted in Hegelian notions of citizenship and self-actualisation, while message standardisation presaged a certain inflexibility, or 'path dependence',[4] consigning other liberatory ideas to a vague tomorrow. Some chose not to rock the boat, hoping that tomorrow would come soon. Others didn't.

MISFIRES AND MISFITS

A befuddling plurality of threads hung loose as the 1990s began. Some could be traced back decades – the Beaumont Society was still active, for example. Judy Cousins retired from leadership of SHAFT in 1987,[5] and in 1989 it was succeeded by two groups: the Gender Trust, co-founded by Alice Purnell, and Gender Dysphoria Trust International (GDTI), chaired by Fran Springfield, the cisgender spouse of a trans woman. Focusing mainly on improving trans people's access to specialist medical care, GDTI's transition from limited company to charity in 1993 required it to abandon its 'political' goal of changing the laws around gender recognition. The GDTI struggled on for a few more years before ceasing operations in 1995 due to financial issues,[6] brought on in part by the decision to rent physical offices in Yorkshire.[7] Other threads in the activist scene were newer and only loosely woven into the larger tapestry. In 1988, the *Sunday Sport*, a right-wing populist outlet, claimed that a 'furious gang' of 'paramilitary-style gender benders' was 'campaigning to get the law changed so that people who alter sex can be officially recognised in their new gender'.[8] In 1989, the *Guardian* reported that a trans businesswoman named Stephanie Anne Lloyd was launching 'a campaign to gain legal recognition for transsexuals' via the Albany Trust, a specialist LGBTQI+

counselling service founded in 1958.[9] Another shortlived proposal – that the issue be handed to the Church of England or the Law Commission for review – came from *Times* journalist Clifford Longley after the judgment in the *Cossey* case.[10]

While some locked on to legal recognition as the totemic political issue, others exercised a contrarian urge. One of the more energetic critics of recognition-focused activism at this time was Rachael Webb, a trans lorry driver and Labour Party (Militant Tendency) councillor for the Ferndale ward of Brixton in Lambeth. She first rose to prominence when she was interviewed by journalist Liz Hodgkinson for her book *Body Shock: The Truth About Changing Sex* (1987). In the book, Hodgkinson observed that Webb was unlike her other interviewees in two important ways. First, she came from a working-class background, whereas most transsexuals, at least those associated with SHAFT and other national community groups, seemed to have a 'solid middle-class' pedigree. Second, she was more 'conspicuously political' and 'militant' than the rest, though on this point Hodgkinson acknowledged that 'a growing number of transsexuals feel that present laws discriminate against them, and they are now more prepared to fight publicly for what they consider to be their rights'.[11] Like any good misfit, Webb was a complicated, idiosyncratic, and provocative figure. In an article submitted to the feminist *Spare Rib* magazine in 1986, for instance, Webb hailed Janice G. Raymond's infamous anti-trans monograph *The Transsexual Empire* (1979, see Chapter 4 for a full discussion) as a 'brilliantly perceptive' takedown of the behaviour of many trans women, concluding, in concurrence with Raymond's analysis, that some could fairly be 'accused and found guilty' of a 'willingness to collude' with normative gender expectations.[12] Webb acknowledged that Raymond's book 'goes on to invalidate the experience of transexuals [*sic*] and further, leaves us with no hope of salvation',[13] so she was not endorsing it per se, but her tone chafed with the broader effort by trans groups to dispel Raymond's conspiratorial accusations. In Webb, then, we see an alternative model for trans activism – one less concerned with optics and public sympathy, but

also less tonally consistent and perhaps more likely to misdirect casual observers.

Irreverent idiosyncrasy also defined Webb's views on 'recognition'. In a letter to the *Guardian* in 1990, she argued:

> There are too many problems involved in simply demanding that our birth certificates be changed, one of the major problems being the position of non-physically intrinsic transsexuals who can obviously not be accepted as women, but who very definitely are entitled to equality of opportunity.

Webb's aim was to *break out* of existing systems entirely; she argued that rather than fighting for the restoration of marriage rights, trans activists should campaign with gay rights groups 'for legal recognition of relationships outside of formal marriage'.[14] Later in 1990, she penned a paper titled 'Transexuals and Local Authority Equal Opportunities Policies' for a Lambeth Council workshop, stating that 'my view … is that there is absolutely no reason why birth certificates should state anyone's gender'. She was well aware of her relative isolation in mainstream trans discourses on this point, noting: 'I have never yet found anyone who agrees with me'.[15] The most complete expression of Webb's principles for a socialist and feminist trans politics came in the April–June 1991 edition of *Rogue* magazine, where she again critiqued a purely rights-based trans activism:

> I find the whole subject of the 'right' of a transsexual to marry a person of the same sex as our given gender role at birth, but opposite to our reassigned gender, to be … irrelevant and confusing to my identity.

This was in part because Webb did not see trans people as fully the gender with which they identified, but also because, as a socialist with deep-seated suspicions of the capitalist state, she did not see the right to enter a 'traditional bourgeois marriage' to be 'at all progressive'. Her policy

prescriptions addressed systems and epistemes, not the details of law. She wrote:

> The transsexual discrimination I suffer is not caused by a lack of legal recognition. It owes more to the class nature of bourgeois law and its orientation towards property relations and the nuclear family than a failure to convince courts and parliaments and lawyers that we were given one sex at birth and are now another.

To amend her birth certificate, she concluded, 'would be to create an historical lie and would do nothing to help me overcome the prejudice from which I know I suffer'.[16] In 1996, Webb reiterated her belief that 'what so many transsexuals are after is the legitimisation of a fantasy rather than civil rights'. Better to abolish gender as an operative legal concept:

> In my view, there is no good reason why birth certificates should state anyone's gender. It is only in a society in which gender-roles are central to our existence that it is necessary to state a baby's sex when it is born. Better to advocate equal rights in this way rather than with a strategy prefaced upon the fact that we are pretending we were female babies when we were not.[17]

Webb occupied an indeterminate position on the kaleidoscope of trans politics. On the one hand, her rejection of the 'fantasy' that trans men really are men and trans women really are women at least superficially chimed with reactionary and anti-trans feminist opinions on the matter, but at the same time, Webb insisted that true trans liberation hinged on the complete upheaval of *all* oppressive systems, particularly those that perpetuate economic exploitation, placing her theoretically closer to revolutionary socialist traditions. Either way, her views proved unpalatable for some trans people. One Rae Brown responded to Webb's *Guardian* letter, labelling her views 'somewhat eccentric', questioning her alleged desire 'to confuse the sexual orientation of lesbian and homosexual persons with the gender

difficulties experienced by transsexuals', and accusing her of doing 'a disservice to all transsexuals by choosing to seek for herself a unique status', probably alluding to Webb's strident anti-assimilationism. *Contra* Webb, the end goal for Brown was legal recognition for trans people's changed gender status, but the problem was that seeking 'special treatment' could turn public opinion against them.[18] The concerns raised by Brown partially explain why Webb's version of trans activism never attained primacy. The fusion of trans liberation with revolutionary principles grounded in socialist theory, as well as the express devaluation of short- and medium-term legal solutions, made 'Webbism' look like a dead end to some: too radical to be widely adopted, yet not ambitious enough to address immanent problems.

Webb spent a great deal of her time on the defensive. Many attacks came from the far right, like a 1991 British National Party leaflet distributed in Lambeth which referred to her as 'half-man, half-woman' and 'he/she/it'.[19] Other attacks came from journalists, particularly at the *Sunday Times* and *Evening Standard*, both of which ran aggressive campaigns revealing intimate details about Webb's life and a loan she had received from her tenants' association to help with the costs of medical transition. Aldo Nicolotti, Assistant Managing Editor at the *Standard*, declined Webb's requests for his paper to back off, telling her that the public 'has the right to know the full background of those who represent them' and that her 'change of sex was of legitimate public interest'.[20] Anthony Bambridge, Executive Director of the *Sunday Times*, told Webb:

> Your sexual orientation [*sic*] is your business and your business alone unless you choose to bring the matter into the public domain. We would argue that you did this when you borrowed the money for a sex change operation from a tenants' association which was funded with public money.[21]

This invasive treatment highlighted the risks run by those who stepped into the fray on their own, without any specialist backing. As for her coalitional

(or what we might now call ‘intersectional’) vision for inter-communal solidarity between those fighting for the liberation of trans people, gay people, women, Black people, and others, she felt aggrieved that she had been rebuffed at every turn in her proposals for cooperation with other movements by a trans community that was, in her view, unwilling to do this because it was ‘generally racist’ and stuck in ‘a reactionary backwater’.[22] Confrontational class rhetoric and calls for radical solidarity across multiple arenas of justice were simply too out of step with a maturing reformist ethos at the time.

TALKING SHOP

One of the spaces where Webb made her case for a less isolated form of trans advocacy was an event titled *The First International Gender Dysphoria Conference*, a gathering of minds co-organised by the Beaumont Trust and the Gender Trust (one of the two SHAFT successors) and hosted at the University of Manchester in 1990. Branded GENDYS (a portmanteau of ‘gender dysphoria’), this conference series reconvened every two years throughout the 1990s and into the 2000s, providing a space where trans political ideas could be presented and considered at length. Speakers included medical professionals, sociologists, political theorists, and activists from the UK, US, Europe, Australia, and elsewhere. Some speakers, like Webb, were politically ‘radical’, believing that any attempt to resolve trans people’s troubles within the capitalist system was doomed to failure; others were eager to improve conditions by whatever means necessary, including via intelligent compromises with the powers that be. This latter view represented the majority opinion among conference speakers, and their predominance rendered the conference a kind of think-tank for trans reformism. GENDYS facilitated a continuous dialogue with an emphasis on expertise and action rather than abstract idealism.

In one archetypal GENDYS talk in 1990, Anne Hanson of the Beaumont Trust gave an overview of the discrimination faced by trans people and their lack of explicit protections in law. She argued that new

legislation recognising the existence of trans people would not necessarily fix every problem, but she remained adamant that it was worth the effort: ‘Legislation has one beneficial effect. It usually makes employers think carefully before making a decision. It encourages them to explore all the options.’[23] In 1994, Phyllis Randolph Frye, Director of the International Conference of Transgender Law and Employment Policy, told delegates of her successes in the United States:

> There was a law in Houston, Texas … years ago that made it illegal just to cross-dress. … It took me four years of lobbying and walking the streets and working for people, running for elective office, free, voluntary. I got the law changed through legislative action.

She emphasised that the demands being made were not as radical as they might seem. ‘We are not asking for surgery on demand’, she pointed out, and so long as the case for reform was made with sufficient care, cogency, and cohesion, legislative and judicial bodies could be expected to be receptive. However, there was also a need to maintain close contact with gay and lesbian campaigners, because, Frye conceded, trans people alone ‘don’t have the numbers’ to achieve change. On another strategic point, Frye predicted that Britain’s membership of the ‘EC’ (the European Union) was going to ‘help you [British activists] a lot. I really think that the gender rights organisation within the [EU] is going to do more for us legally than anything else.’[24] US-British sexologist Richard Green said at the same conference that the way forward was ‘public education and political awareness’ and the escalation of strategic litigation with ‘more concerted action by law firms in pro bono work, with specialised legal groups, working at transsexual issues, and pushing as many cases in as many jurisdictions as possible, including the European court’.[25]

Not all detriments seemed to speakers to require so much attention. The high priority given to matters of policing in the 1970s and 1980s gave way at GENDYS to a far less urgent view of the problem. In 1992, Stephen Whittle acknowledged that a ‘culture of machismo and heterosexuality’ in

police forces had fostered a dismissive, often downright hostile attitude towards gender minorities, but he did not regard this as a first-order issue because ‘research shows transsexuals have so little to do with the police’. After all, he continued: ‘They are law abiding, and keep clear of trouble – they are all too aware of the machismo of cop culture, as they experience it, as its views permeate through the rest of society.’ It was Whittle’s view that while trans people could not ‘avoid all contact with the police’, they would in general keep a healthy distance because ‘they are aware of what they have to lose’.[26] Whittle’s fellow Press for Change organiser Frank Hannah told the 1998 conference that ‘Police harassment in this country generally is no longer a big problem [for trans people]’, concluding that there was only ‘one burning problem’ left on the table, this being ‘the beastly historical document, the birth certificate’.[27] Other community leaders agreed with this assessment. In 1993, Anne Forrester, editor of *The Tartan Skirt*, the magazine of the Scottish TV/TS Groups, published a letter from a trans prisoner she had been visiting and called it ‘a cautionary tale for others who may seek relief from their gender dysphoria by “taking control” in ways that may confront the law’. The crime was motor theft.[28] To avoid police mistreatment was at this stage regarded by many in positions of communal leadership as a question of personal responsibility, although it was agreed that archaic public order laws required attention.

As the presence of speakers from across the seas attests, the GENDYS series reflected the fact that trans politics was inescapably an *international* conversation by the start of the 1990s. British activists were increasingly in communion with and taking cues from actors in other states. First drafted by Pennsylvania activist JoAnn Roberts in 1991, adopted at the second annual meeting of the International Conference on Transgender Law and Employment Policy in Houston, Texas, in August 1993, and revised over the ensuing years, the International Bill of Gender Rights established a gold standard to which governments, courts, and international bodies like the United Nations might aspire.[29] The first principle in the bill as revised in 1996 asserted:

> All human beings carry within themselves an ever-unfolding idea of who they are and what they are capable of achieving. The individual's sense of self is not determined by chromosomal sex, genitalia, assigned birth sex, or initial gender role. Thus, the individual's identity and capabilities cannot be circumscribed by what society deems to be masculine or feminine behavior. It is fundamental that individuals have the right to define, and to redefine as their lives unfold, their own gender identities, without regard to chromosomal sex, genitalia, assigned birth sex, or initial gender role.[30]

The bill did not specifically mention the amendment of birth certificates or any other identity documents as a precondition for respecting this principle, although this was strongly implied by the insistence on people's right 'to define, and to redefine as their lives unfold, their own gender identities'. Other items in the bill demanded equal access to things like employment, marriage, and parenthood.[31] Clear and concise, the bill gave activists divided by borders and languages a common point of reference, although not all were convinced of its worth. Anne Forrester, the above-mentioned editor of *The Tartan Skirt*, argued in 1992 that a simple right to privacy would be more valuable than a generalised Bill of Gender Rights, since trans people wanted only to 'get on with their lives' without fear of exposure.[32]

The Council of Europe's 23rd Colloquy on European Law held in Amsterdam in April 1993, titled *Transsexualism, Medicine and Law*, was another historically pivotal forum. In terms of its long-term impact on trans discourses in Europe, it was perhaps the single most important meeting of its kind held in the 1990s. Speakers at the colloquy were uninhibited by the perceived need for political tact that permeated many trans groups; solutions that would have caused some conservative commentators to balk were posited openly in the assurance that most of the audience would be at least temperamentally receptive to new ideas. The fact that the conference was being held in a country and city infamous for cultural openness contributed to this atmosphere. In the opening speech, Professor L. J. G.

Gooren of the Free University in Amsterdam told the delegates that ‘The law that enabled transsexuals in the Netherlands to have their new sex legally recognised was passed in 1985’, and from his own observations he was assured that ‘the legal recognition of their new sex status has been an important favourable factor in their emancipation and self-esteem’.[33] Dutch legislation was the standard against which other European countries could be compared, and against which the UK looked positively prehistoric. The backdrop of the 1985 law helped create an atmosphere in which delegates did not feel obligated to stress the value of gender recognition laws. Their worth was a given. Speakers were thus freed to ponder a different question: whether it made sense to treat gender as a legal category to begin with. Frans van der Reijt, representing the Dutch Gender Foundation, declared at the colloquy, which he praised as ‘a milestone in the emancipation of transsexual people’, that he was ‘most strongly convinced that the best and easiest way to tackle the legal problems of transsexuals is to radically delete the mention of sex from the birth certificate’ as it ‘serves no purpose’. Future documents could ‘avoid … ambiguities from the start by simply not mentioning it at all’.[34] That recognition for trans people was simply part of the woodwork of contemporary European law was reaffirmed by Stefano Rodota of the University of Rome, who observed that the pan-European trend ‘is essentially one of increasingly wide recognition of transsexualism, either by legislation or by case law’. He argued that the law should accommodate ‘a continuum … whereby individuals may develop their personality and sexual identity and bring the psychological, morphological and social aspects of themselves into harmony’. The best approach was ‘a non-authoritarian and non-rigid view of law’ in which ‘law is seen as flexible and capable of adapting to changes in personal situations, using rules which instead of being authoritarian are designed to reconcile changing situations’.[35]

Commenting on the disunity (or ‘legal dysphoria’) in Europe’s provisions for trans recognition, Michael Will of the University of Geneva offered a solution:

> A European Convention on the Mutual Recognition of Sex Reassignment could have been a modest first step, somewhat bolder would have been flexible Recommendations or perhaps even a Convention on the Legal Conditions of Sex Reassignment containing a framework of more or less detailed guidelines for national legislation in all of the Council of Europe's members states![36]

One major obstacle to adopting such a framework was that the European Commission (of the European Economic Community/European Union) and the ECtHR prioritised respect for the legal arrangements of member states over the enforcement of universal principles. Will noted that while the commission had reproached Belgium as early as 1979 for having 'refused to recognise an essential element of [a trans man's] personality' and treating the individual in question as 'an ambiguous being', neither the commission nor the court were willing to challenge the UK's birth registration system.[37] As for the best legal arrangements, Will was less convinced than others that the 'global classification' of sex/gender could be abandoned simply to accommodate the 'few cases where a person's real sex turns out to be different from the midwife's first impression', though he conceded that it was unlikely that this 'radical proposition' would have any disastrous effects.[38] Will's objective was to 'harmonise sex change legislation in Europe' according to common principles, including the requirements that applicants are diagnosed with 'transsexualism' by 'an independent medical authority', that they complete a '[r]easonable real life test' (i.e., an assessed period of living 'in-role'), that they dissolve existing marriages, and that they undergo 'irreversible sterility',[39] as was the case in Sweden.[40] The tenor of discussion at the colloquy reflected the extent to which the creation of a bare-bones system of trans recognition – still space-age technology in Britain – was already regarded in some parts of the European mainland as the lowest acceptable bar; uninspiring; old news.

The impact of the colloquy on UK trans politics was considerable if somewhat latent. Christine Burns, soon one of the most prominent trans activists in Britain, was convinced to attend by her friend Alice Purnell.

Writing on her personal blog in 2011, Burns described the colloquy as '[o]ne of the most significant events I have ever attended', remarking that it represented 'a lightbulb moment – an epiphany – for me'. Her recollections continue:

> From the sessions I attended I learned that there was a medical understanding of people like myself that simply wasn't part of any discourse about our rights in Britain. There was also a liberal rights-based legal discourse too. It revealed … that what we were seeking shouldn't be a call for tolerance, but a call for *justice*.[41]

Amsterdam elevated her expectations. In an article for *Gendys News* in November 1998, Burns explained that deleting gender from documentation had been a new concept to her in 1993. The idea fundamentally recalibrated her impression of what was achievable, making her question why so many trans people in Britain, herself included, were aiming so low when compared with their continental counterparts. 'It was one of those things', she explained, 'that remind[ed] me that we are *still* painfully apologetic, as a community, about asking for what's rightfully ours.' Given that cultural and political changes were 'already in progress that make the requirement for a legal reference point for sex into an anachronism', the question in her mind became: 'why empty the bath one cup at a time when you can just pull the plug out?' In sum, the colloquy turned Burns, at this time still a member of the Conservative Party, into what she called a 'Fourth Column Revolutionary' (alluding to sex, the fourth column on the British birth certificate).[42] It also brought her into contact with Stephen Whittle and Press for Change, which she joined as an activist later in 1993.[43]

'A SPARK OF INSPIRATION'

Press for Change was established in the wake of a fringe meeting on the legal position of transsexuals hosted by Mark Rees and the Tunbridge Wells Liberal Democrats at the 1991 Liberal Democrat Federal Meeting. As per

Rees's memoirs, the fringe meeting 'brought some of us [trans activists and friendly cis people] together', including Whittle, the actress Myka Scott, and the airline pilot Kristina Sheffield, 'which gave me the incentive to move matters on'. Supported by Alex Carlile MP, Rees 'contacted several interested people, both transsexual and sympathetic professionals, and organised a meeting', held in Carlile's office on 27 February 1992. Carlile recommended that they write to every MP in the new parliament following the 1992 general election, and that his visitors continue their meeting in the nearby Grandma Lee's café. 'Having firmly decided to set up a group', writes Rees, 'we wondered about a suitable name. Suddenly someone said, "Press for Change!" It was a spark of inspiration. We all agreed and thus the movement was born.'[44] When Burns joined the following year, she brought vital technical skills to the organisation, setting up CompuServe forums in 1993 where activists coordinated with allies abroad,[45] and, continuing the work started by Rees in 1992, helping to organise fringe meetings at the Conservative, Labour, and Liberal Democrat party conferences. She characterised these fringe events as 'a small group of citizens politely ask[ing] to be heard',[46] 'polite' being an important word in her work. At the Conservative Party conference in September 1993, Burns mingled with a High Court judge and an executive from Granada TV, and stayed in a hotel room next to Jeremy Hayes MP, whom she later described as 'a trans ally'. These individuals were added to the ballooning list of highplaced connections in media, academia, law, and politics whose influence PfC could call upon.[47] At least two of its activists were members of the elite intelligence organisation Mensa.[48]

In retrospect, Burns and Whittle described PfC as a 'non-hierarchic' enabling body that valued 'the community speaking for itself', with members being encouraged to pursue their own priorities.[49] Asked about the 'theoretical basis' for PfC in 1996, Whittle responded: 'Aaaargh – it has many different theoretical bases as there are PFC activists … it is a post-organisation organisation [functioning under] responsible autonomous anarchy.'[50] In practice, however, a small group ended up taking a clear leadership role, while ideas that went against the grain of PfC's solidifying

strategic consensus typically had to be pursued elsewhere. The group viewed the resolution of many residual social issues, such as transphobic discrimination in work and housing, as being dependent on the attainment of 'full legal recognition'.[51] Its leadership often deemphasised alternative priority structures, if not by design then by the sheer force of momentum. Demographics also played a role. PfC was diverse in some respects – many different professions were represented within it, as well as different income levels and backgrounds (Rees having spent much of the 1980s unemployed and impoverished) – but it was also strikingly uniform in other respects. A page on the organisation's website profiled twelve 'key activists', including Burns, Whittle, Rees, and Scott. All twelve were white.[52] A person of colour would not feature prominently in a PfC publication until 2005, when Thai trans kickboxer Nong Tum contributed the preface to a report on trans people's access to sport and leisure facilities.[53]

A pivotal PfC planning meeting was held in London late in 1993.[54] From this meeting emerged the Press for Change Mission Statement, which defined the group as 'a political lobbying and educational organisation, which campaigns to achieve equal civil rights and liberties for all transsexual and transgender people in the U.K. through legislation and social change'. The statement placed PfC at the climax of a teleological historical narrative. 'From as early as 1944 until 1970,' it asserted, 'support was provided at law: birth certificates were annotated, marriage was legal, and the rights of citizens under detainment and imprisonment were assured.' Then came *Corbett* v. *Corbett*, that accursed ruling which was 'used in all circumstances in which gender is legally relevant' and eroded 'the rights of transsexual people who have adopted their proper gender role'. This, in the narrative told by the Mission Statement, is where PfC comes in: 'In the light of the above injustices, the "Press for Change" Campaign will work towards achieving the following rights and liberties for all transsexual people in the U.K.', including their right to 'live in their proper gender role without harassment, ridicule or discrimination', to 'privacy regarding [their] personal medical history and transsexual status', to 'marry in [their] proper gender', and '(when applicable) to be sent to a

prison appropriate to [their] proper gender'. This enumeration of PfC's lofty ambitions culminated in paragraphs 6.01 and 6.02:

> The final goal of the campaign is to achieve full legal recognition of transsexual people in their proper gender roles. The immediate goal of the campaign is to obtain as many rights and liberties for transsexuals as possible through any possible avenues. … [This includes] [r]ecognition in Parliament of the need for a method of granting transsexuals the same rights as other citizens. … Press for Change is concerned that in securing the rights of some transsexual people, it could simultaneously further marginalise others. It will therefore be stressed throughout the campaign that the absolute criterion for transsexual status should be self definition.[55]

This final point was reinforced in the 'Code of Conduct for Press for Change Campaigners', which said:

> Press for Change is **INCLUSIVE** – we are working for **ALL** trans people, interpreted in the broadest sense, not just for an elite of post-operate transsexual people. We are always very careful to act so that in improving the rights of one group, we don't damage those of another.[56]

Further, in its 'Five Principles for the Evaluation of Legislative Proposals', adopted in 1997, PfC insisted that it would not simply settle for non-inclusive legislation. Principle 2 enshrined a 'permanent and unavoidable reminder of our obligations to the *whole* community whom we serve', specifying that future legislation should be 'inclusive of the needs of *all* transsexual people'. Principle 4 went even further, stating that legislation must 'establish selfdefinition as the principal and overriding qualification for correcting a previously recorded sex/gender status'.[57] Recognition was an inseparable part of PfC's DNA, the group never averting its gaze from this target.

This singularity of focus, combined with a plurality of tactics ('through any possible avenues') and a vaunted proclamation of inclusivity, was informed by the organisation's perception of its place in history. For the first time, in PfC, the threads seemed to be coming together into one patchwork. However, this bold vision of unity proved difficult to substantiate, as in practice PfC tended to put its 'best' foot forward, leaning into the least normatively offensive representation of who trans people were and what they wanted. The assumption that 'ordinary' trans people were exceptionally unexceptional permeated its outward-facing communications. A visitor to PfC's website in the late 1990s would have been greeted with a homepage bearing the bold headline: '**Seeking no more but no less than what YOU take for granted.**' Down the page, in a paragraph at odds with the anti-medicalist universality of the Mission Statement, the group emphasised that 'transsexuality is an internationally recognised condition, and not a form of sexual or political rebellion'.[58] While it is true that few trans people at the time deliberately presented their gender identities as a form of 'sexual or political rebellion', it can often be difficult to avoid the *perception of* or the *need for* rebelliousness in a society that meticulously polices modes of selfhood.[59] Nowhere is PfC's strategic conservatism more clearly expressed than in the claims the group made about the size of the trans population. PfC's homepage reported that 'over the last 30–40 years, more than 5,000 people in Britain have successfully transitioned between the genders'. This number appeared in countless press releases, newspaper articles, consultation documents, government memos, parliamentary debates, and policy reports from the 1990s to the mid-2000s, often being taken as an authoritative estimate despite the lack of clarity as to its origins or even what it represented. Prior estimates in the public domain varied considerably. Christine Doyle, medical correspondent at the *Observer*, reported in 1974 that 'one rather casual estimate' suggested there were 30,000 transsexuals in the UK.[60] Linda Avery of the *Guardian* reported in 1982 that 'one in thirty of the adult population in Britain experiences some degree of gender confusion',[61] which would translate to around 1.5 million people as per 1981 Census data. And in August 1998, Decca Aitkenhead,

also writing for the *Guardian*, referred obliquely to ‘some 60,000 transsexuals in Britain’.[62] None of these scattershot estimates became widely acknowledged as definitive, and they would all be replaced around the turn of the millennium by an emerging statistical orthodoxy. Soon, few public conversations about trans people could occur without someone bringing up the estimate that 5,000 transsexuals, most often (but not always) defined as those desirous to change their ‘anatomical sex’, resided in the UK.

This information achieved near-ubiquity after it was quoted in the *Report of the Interdepartmental Working Group on Transsexual People*, the UK Government body set up to consider trans law reform, in 2000.[63] The working group’s source was an estimate provided by PfC.[64] According to Whittle, the PfC figure was itself an approximation of the number of ‘post-operative’ transsexuals reached through consultation with the Passport Section of the Home Office.[65] Burns, conversely, writes that it came about through communication with Peter Lilley, Secretary of State for Social Security under John Major, and through the comparison of Department of Social Security figures with epidemiological data.[66] Few journalists or politicians (or indeed activists) consistently drew these distinctions. Whatever its derivation, the figure 5,000 seemed to be in the right ballpark. It aligned with a 1999 estimate of the incidence of transsexualism (8.18 per 100,000) produced via a survey of general medical practitioners in Scotland.[67] The number also seemed anecdotally plausible. Throughout most of the twentieth century, as discussed in Chapter 1, trans people’s communal infrastructure had consisted mostly of secretive support groups like the Beaumont Society.[68] A ‘close network of individuals’ from these organisations then formed the inner sphere of the 1990s wave of activism.[69] Socially, this was a small universe. Combining this sense with the fact that PfC was sending its newsletter to 2,000 people by the turn of the new millennium,[70] it felt like a safe bet to conclude that the number of transsexuals in the UK was not much greater than 5,000. Burns, for her part, argues that the goal was ‘statistical realism’ rather than ‘inflating the numbers’,[71] but the figure was never politically neutral. PfC used it to prove

that as a group no larger than a village, trans people posed no macro threat to gender norms. Clare McNab, one of PfC's most prominent activists alongside Burns and Whittle, went so far as to offer a slightly ominous physical metaphor for containment in a post on the group's website:

> Our estimate is that there are about 5,000 transsexual people in this country: that's 0.01% of the population. Or an average of about 8 out of the 80,000 people in every parliamentary constituency. Or a fraction of the number of people who turn out to watch a premier division football match – in fact, you could comfortably fit us all on the football pitch![72]

PfC successfully distributed its preferred statistical narrative to Britain's news media, which largely accepted the assertion that there were around 5,000 transsexuals in the UK.[73] Some cited the figure as late as 2013.[74] That PfC possessed the political clout needed to direct public discourse so effectively is a testament to its extraordinary influence – at least, extraordinary relative to its size. However, one downside to the runaway success of the statistic was that it made 'trans rights' as a political project look exceptionally parochial from the outside and even more challenging from the inside. 'Small' and 'containable' are not characteristics that typically inspire confidence in the capacity of a group to drive its interests forward. As US activist Phyllis Randolphe Frye said at the GENDYS conference in 1994: 'We ain't going to do it by ourselves. We don't have the numbers.'[75] Offering a similar explanation for the glacial pace of trans liberation, trans reality television participant and activist Donna Whitbred stated in 2012 that 'when you're smaller [in numbers] it takes longer'.[76]

Still, activists felt profound satisfaction with the degree to which PfC had transformed the political narrative. A *Guardian* editorial published in 2000, formed largely of quotes from Burns and Whittle, described the era before 1992 as pre-history; or perhaps a sort of Dark Age. The *Corbett* ruling, according to Burns, formed in this bleak epoch 'the touchstone upon which virtually every aspect of our lives came to be judged'. Then, ran the editorial, 'this all changed when six men and women met at a London café

to form Press for Change, trans people's first political campaigning organisation'.[77] On its face, the claim to stark novelty is a stretch. There had up to that point been at least three campaigning organisations with a UK-wide reach, or at least aspirations to such: TAO, TAG, and SHAFT. The Beaumont Society and the Gendys Network, as well as the Gay Liberation Front, the Albany Trust, and Liberty, had also served as centres for political activism at various points. PfC benefited from a decades-long coagulation process, and the exact form it took was possible precisely because it *was not* strictly the first of its kind. In a 2017 post on her personal blog, Burns herself acknowledged that the era before PfC 'wasn't a complete blank space'.[78] Nevertheless, we cannot dismiss the *sense* of novelty. As Burns told the *Guardian*, PfC's birth was emotionally pivotal in that it 'represent[ed] trans people's willingness to become more vocal in resisting prejudice'. Particularly noteworthy was a 1997 march organised by PfC in which fifty trans protestors handed over a 10,000-name petition for trans law reform to officials at 10 Downing Street, which 'represented tremendous progress to have got all these trans people on to the streets'. Organised opposition to trans rights was also, slowly but surely, growing and getting more determined, though Burns saw a silver lining here: 'It is such resistance which symbolises trans people's stronger united voice.' Whittle, meanwhile, expressed joy at having been:

> at the forefront of a new political movement that has really challenged the issue of body fascism. If we can win the [battle] about trans bodies, then we can win [on] all the other battlegrounds surrounding the body – whether it is to do with being fat or thin, able or disabled, black or brown, male or female.[79]

For a little movement hitherto plagued by pessimism and existential isolation, the assertion that trans activism might actually be the springboard from which other oppressions would be tackled was genuinely revolutionary.

In the latter half of the 1990s, the main forum for those of a more avowedly ‘radical’ politics than that represented by PfC was the Gender and Sexuality Alliance (G&SA) and its periodical, *Radical Deviance: A Journal of Transgendered Politics*. G&SA was founded by trans woman Kate More after she had an especially unpleasant experience at a rape crisis centre in 1994. Driven to care for those at the margins of the trans community, she began meeting with friends of a similar mindset, and in time she was joined by the likes of former GLF activist Roz Kaveney and the scholar-activists Surya Monro and Zoë Playdon, all of whom served on the editorial team of *Radical Deviance*. The journal set itself apart by reporting on issues such as trans policies at rape crisis centres, the ongoing danger of HIV-AIDS, threats to the safety of trans sex workers, and the trans permutations of Marxist, feminist, and postmodernist theory. Kate More claimed that some of the early meetings were attended by a trans individual who was ‘very close to Tony Blair’, leader of the centre-left ‘New’ Labour project, but the group’s main ideological influence was the ‘Eurocommunist tradition’, with Marxist, Leninist, and Trotskyist influences also present. So constituted, *Radical Deviance* was about ‘forming coalitions that can scare the living daylights out of the Hegemony’.[80] Perhaps conscious of the ideological dilution of prior ‘radical’ trans organisations, More implored the group’s members ‘to fight against it becoming a cosy, middle-class organisation’,[81] although there was no purity test as such: G&SA defined itself as ‘a pluralist advocacy group that includes transsexuals, lesbians, gay men, feminists, socialists, lots of people who define themselves in different ways’.[82] Nor was G&SA ever in direct confrontation with PfC; in fact, its leaders explicitly endorsed a diversity of tactics and cross-community comradeship. Stephen Whittle was a member of both groups and gave regular updates on PfC’s activities in the journal, while Diane Morgan of G&SA wrote in March 1996:

> As, first and foremost, a Parliamentary Lobbying Group [PfC would] be foolish to ignore advice … from their Parliamentary allies. We on the other hand, work with prostitutes, do HIV work and sit on Lesbian and

> Gay policing initiatives, [so] we would be foolish to say goodbye to coalition politics, especially when, according to [Whittle], 50% of [male-to-female transsexuals] are lesbian; it would be a denial of our own sexuality. Nor are we aversed [*sic*] to a bit of medicalizing when it's appropriate, e.g. when taking a health authority to court.

Morgan was quick to note that this entente stood in sharp contrast to the strained relationships between different trans political factions in places like Australia.[83] More and Whittle amicably conversed in an interview published in the same issue, and they agreed on key issues like the desirability of abolishing legal gender markers in the long term.[84] In the next issue, G&SA claimed that Her Majesty's Prison Service had contacted the group for input on the subject of transsexual prisoners and queried why officials would be 'talking to the most anti-establishment group, rather than the equally capable Press for Change who have considerable experience of talking to MPs, Civil Servants, Church leaders etc'.[85] The group respected PfC for its professionalism and achievements. The 'gap' between the two bodies was defined less by *what* they wanted and more by *who* they worked with. As alluded to by Morgan, G&SA maintained contacts in the London sex work scene – contacts from whom *Radical Deviance* often sought input, as it did in 1997 when reporting on the death of Robyn Brown,[86] a trans sex worker whose killer was not convicted until 2009.[87]

While PfC gained ascendancy in the trans advocacy space, another body, the Parliamentary Forum on Transsexualism, bridged the divide between activists and power. As told by former Labour MP Lynne Jones, its first chair, the Parliamentary Forum owed its existence largely to Zoë Playdon, who met Jones on behalf of a trans friend at a constituency surgery in 1993. Playdon, Jones, and Jones's constituent 'J' worked with sympathetic MPs like Jeremy Hayes (Conservatives) and Alex Carlile (Liberal Democrats) to assemble support for an All-Party Parliamentary Group (APPG). A meeting was held in the Jubilee Room of the House of Commons on 30 June 1994, and on the following day, 1 July, a press release announced the formation of the forum.[88] Although it did not garner enough

support from lawmakers to qualify as an APPG, the forum performed an indispensable political function as a kind of think-tank and directory. It worked closely with PfC to publish reports on the medical and legal aspects of trans life. One such report, *Transsexualism: The Current Medical Viewpoint*, was published in 1996 and was authored primarily by Russell Reid, a psychiatrist specialising in gender identity. 'The present legal position', the report stated, 'is that people who have been diagnosed as experiencing transsexualism immediately lose a substantial part of their civil liberties.' It explained that this stemmed from a ruling (*Corbett*) premised on expertise that was 'no longer reliable'. This being the case, it concluded, 'there is no reason why people receiving treatment for Transsexualism and who have permanently changed gender role should be given any lesser legal status than that of any other person'.[89] The forum gave trans activism an unprecedented dimension of officialdom, ensuring that when an opening finally came the infrastructure was in place for a realistic stab at reform. As Playdon put it in 1996, the forum's existence ensured that even in moments of defeat, 'more was learned about the legal arguments and general background, allowing the legal lobby to reformulate and act again, in the future'.[90] The time was fast approaching.

CARLILE, GOODWIN, AND I

Work on what would eventually become the Gender Recognition Bill began during the Conservative premiership of John Major (1990–97). Though not at his personal behest, doing this work with Major at the helm was likely easier than it might have been under his predecessor, Margaret Thatcher, as Major was far more conciliatory on social issues.[91] He did not, in his own description, see homosexuality as a 'social evil', nor was he afraid to discuss the subject of gay law reform with actor and activist Ian McKellen at Downing Street in September 1991.[92] In his memoirs, he said that he told ministers to 'respond more positively … to representatives from the gay population', and in February 1994 his government facilitated a House of Commons debate on the age of consent for sexual intimacy between men,

leading to a vote in which Major supported lowering it from 21 to 18 (though not to 16, as for heterosexual intimacy).[93] Trans law reform entered the workflow of many government departments in the wake of a 'legal analysis of transsexuality' commissioned by Patrick Mayhew (Attorney General, 1987–92) and authored by Michael Carpenter of the Treasury Solicitor's Department, which circulated in draft form in December 1995 and was finalised early the next year. Discussion of the report remained primarily at the civil service level, despite Carpenter recommending that the issue be handed to ministers.[94] The report conceded 'the likelihood of a judgment of the European Court of Human Rights which compels a review of recognition of transsexuality', and considered 'whether any changes can be made in the existing system of registration in order to meet some of the requests made by post-operative transsexuals for greater respect for their private lives'. It acknowledged that 'substantial difficulties' would remain for trans people unless they were allowed to have their gender identities 'recognised for all legal purposes', concluding:

> The most promising [proposal] appears to be the development of a 'change of sex' register analogous to those used in relation to the adoption of children or with respect to parental orders under the Human Fertilisation of Embryology Act 1990.[95]

Finally, the report recommended that the matter be forwarded to the English and Scottish Law Commissions for additional consideration.

Deliberations continued into 1996. In April, a report by the Machinery of Government and Standards Group found that possible policy responses fell into three main categories, the first being 'status quo', i.e., a defence of the correctness of the Government's past position and 'the development of coping strategies against the risk of adverse judgments in domestic courts or the ECHR', the second being 'amelioration', entailing the removal of 'the most pressing disadvantages which stand in the way of transsexuals playing a full part in society in their chosen gender', and the third being 'positive endorsement', which meant giving transsexuals 'full civic and legal rights

in their acquired gender'. Given the apparent centrality of the marriage issue, the report also recommended that the Home Office take primary responsibility for the policy area.[96] This information leaked to the *Daily Mail* and the trans journal *Radical Deviance*.[97] At the recommendation of the Cabinet Office,[98] Fiona Miller in the Home Office and Gay Catto in the Home Office Constitutional Unit began gathering information from ministers and outside bodies for a policy paper. A draft paper circulated in the latter half of 1996 identified five reform models, including a 'change of sex register', a system for making alterations to birth register entries, and 'civil status certificates', meaning 'a register of current civil status with new civil status certificates being issued with a change of name and sex', or, in a near word-for-word foreshadowing of the Gender Recognition Bill of 2004, 'full legal recognition of a change of sex for all purposes'. The paper noted of this option: 'We think this would probably be going too far.'[99]

The electoral victory of Tony Blair's 'New' Labour Party in May 1997 gave the project fresh vitality. New Labour came to power with an ambition to maximise the 'participation' of marginalised minorities within the cultural mainstream, envisioning, in the words of political scholar Janet Newman, an idealised 'modern society in which inequalities have largely been overcome (with residual categories dealt with through policies on social exclusion)'.[100] It was taken as a matter of course that 'participation' in national life was the main desire of oppressed groups; there was no place for sub-communities that desired to maintain a degree of separation from 'normal' standards. As Newman explains: 'The "people" can include differences, as long as those differences do not make a difference.'[101] Diversity could only be superficial, such that *cultural* diversity, for example, could only exist if people committed themselves to the preservation of the prevailing system of organisation, i.e., (neo)liberal capitalist democracy. We could call this 'ideological ecumenism', the toleration of divergences *only* in one's mode of travel towards a set destination, rather than 'ideological universalism', a looser framework that tolerates different trajectories.[102] A second pillar in New Labour's constitutional agenda was to reframe citizenship in terms of the

responsibilities citizens owe to their country. In his 1997 party conference speech, Blair stated that 'a decent society is not based on rights. It is based on duty.'[103] This duty was defined largely in terms of economic productivity and self-sufficiency,[104] with the result that injustices affecting minority groups were prioritised for legislative resolution mainly when they could be regarded as barriers to productivity; that is, when reform was a path back to 'normality'. The campaign for trans recognition led by Press for Change thus fit rather neatly in rhetorical terms into New Labour's pre-existing policy programme. Another point of convergence was the fact that Blair's government relied heavily on 'umbrella organisations' – large, usually London-based advocacy groups – in its dealing with minority communities.[105] PfC fit the bill nicely.

Blair's Home Secretary, Jack Straw, took a personal interest in the matter of trans law reform, with Catto advising he take a 'step-by-step' approach and giving him the five options from the 1996 paper in an early memo.[106] Katharine Bramwell, Straw's Private Secretary, told the Private Secretary to the Economic Secretary in July 1997:

> The issue of the birth certificate is … a key concern of transsexuals and we are coming under increasing pressure from individuals and groups campaigning on their behalf to change current practice. The Home Secretary [has] some sympathy with this, particularly in view of the more liberal position in many other countries. He would like therefore to review the Government's practice in this area.

She clarified that Straw was not at this stage considering a full legal overhaul:

> the Home Secretary would not envisage changes which would provide transsexuals with legal recognition of their new sex for all purposes. What he has in mind is an examination of the various options in relation to birth certificates to determine if some form of certificate could be provided which, to all intent and purposes, would show transsexuals in

> their acquired identity. Such a step would help to minimize the distress experienced by transsexuals without necessarily involving changes in, for example, marriage and family law – although the Home Secretary would not necessarily rule these out.[107]

Downing Street Chief Press Secretary Alastair Campbell caught wind of Straw's investigations, and on 1 August sent him a brief and characteristically blunt cautionary note about the potential consequences for New Labour's image:

> My reaction: 1. Oh no, not another review! 2. Of all the reviews to pick! 3. Is this really a review necessary to undertake? 4. This is the kind of story that would run for days during August. 5. Have a nice holiday.[108]

Peter Mandelson, the Minister Without Portfolio, also pushed back, arguing: 'I do not see that there is sufficient pressure for a Government review. I also believe that the work undertaken by officials should be conducted internally, without publicity or a formal announcement.'[109] However, Straw's instinctive caution was not shared by all. Helen Liddell, Economic Secretary to the Treasury, wrote to Straw through their secretaries that as trans groups had been 'effective lobbyists', and as the pressure from them was only increasing, a fix involving only alterations to birth certificates would be 'unrealistic' because this was 'just one aspect of a bigger issue, [trans people's] Civil Status'. Trans activists, certainly not lacking ambition, 'could not be expected to regard that as the end of the matter; nor might that necessarily be a satisfactory end to it'. She therefore wondered 'whether the better approach would not be to address the question of transsexuals' Civil Status in the round'.[110] Catto acknowledged that the Economic Secretary was 'no doubt right' that trans groups would 'continue to lobby for further recognition of their new status'.[111] On 24 November 1997, while introducing the idea of a review to Deputy Prime Minister John Prescott, Straw conceded that rather than a piecemeal approach, it would be better to 'set up an inter-departmental working group at official level', a

conclusion supported by the Lord Chancellor, Lord Denny Irvine,[112] who warned against 'delay in beginning work on the issue' due to mounting pressure from lobby groups and the ECtHR.[113] After a round of ministerial deliberations in which no fundamental objections were raised, Prescott gave Straw the go-ahead to chair an interdepartmental working group on 19 January 1998.[114] Meanwhile, events outside the government's control were making its position more vulnerable.

The first formal attempt at legislating for legal gender recognition for trans people came in 1996 in the form of Alex Carlile's Gender Identity (Registration and Civil Status) Bill. As a Private Members' Bill with no frontbench backing – not even from his own Liberal Democratic frontbench – Carlile's effort was never fated to go far. Its significance was rather that it was the first would-be legislation in the UK designed from the ground up to benefit (some) trans people. Carlile explained in the Commons during the solitary sustained debate on the Bill on 2 February 1996: 'This Bill is about transsexuals – a significant group of people in our society who, in a phrase, are deprived of the ordinary protections of law that we take for granted.' He was advised by Terence Walton, a solicitor who worked for April Ashley in *Corbett* v. *Corbett*, and Carlile rallied the authority of medical science just as Ormrod had done to such devastating effect in 1970:

> It used to be thought that transsexualism was a florid psychological state enjoyed – I use the word advisedly – by hysterical individuals who wished to draw attention to themselves, and who were the object of a good deal of laughter and risible printed comment. … Perhaps one of the main reasons why the flavour of the argument has changed is that science has at last begun to play a real part in our understanding of what transsexualism is and how it arises.[115]

The bill was designed to 'allow transsexuals who have completed appropriate treatment in each case to go to the High Court family division and obtain a recognition certificate', after which the Registrar-General would be able to 'issue a new certificate from a new register – not involving

alteration to the birth certificate, but resulting in a birth certificate that is physically indistinguishable from the original'.[116] Carlile stressed the need for strong central coordination given 'the plethora of Government Departments involved' in recording personal details.[117] John Horam, Parliamentary Under-Secretary of State for Health under Major, responded to Carlile in the Commons chamber, declaring that the government was 'sympathetic to the distress felt by transsexuals' and was actively trying 'to smooth the [medical] transition from one gender identity to the other'. He noted that names could already be changed via deed poll, giving trans people some degree of protection from 'the obvious problems and distress associated with their position', but reported that the registrar-general viewed new birth certificates as 'a real problem' because he believed that this would 'undermine the basis of birth registration in Britain'. Significantly, Horam acknowledged that the government might be able to play a role in providing 'tangible public recognition of the new civil status of transsexual', reassuring Carlile that 'the Government recognise the importance of the issues that he has raised. We take them seriously, and we shall carefully consider the issues raised by the Bill.' Horam concluded in an open-ended fashion: 'I believe that [the bill] has fulfilled a useful purpose in taking the argument on to a further stage.'[118] The bill was strongly supported by Labour MP Lynne Jones and Conservative MPs Roger Sims and Edwina Currie, showing considerable potential for crossparty accord. However, Carlile's effort met with mixed reception among trans activists. Stephen Whittle and Kate More, for instance, worried that the proposed mechanism would put trans people back in 'the power of … the courts', raising the awful prospect that another Ormrod-like judge could sabotage the whole system with a single adverse ruling.[119]

While the memory of *Corbett* continued to induce distrust of the judiciary, trans litigation at the European level was finally making headway. The first substantial breakthrough came in *P* v. *S and Cornwall County Council*, heard in the European Court of Justice (ECJ) and resolved in 1996. This case concerned the unfair dismissal of a trans educational manager in Cornwall in 1992 following her decision to undergo gender reassignment

surgeries. An industrial tribunal in Truro found that although the reason for her dismissal *was* in fact her 'proposal to undergo gender reassignment', this was not unlawful because under the Sex Discrimination Act 1975 'woman means a female and man means a male', and 'P' was legally male. However, the tribunal was less certain as to how the facts should be interpreted under the sex discrimination provisions of the 1976 Equal Treatment Directive of the European Economic Community, and therefore asked the ECJ for guidance. Submissions by the UK Government and the Commission of the European Communities argued that since trans people's identities were not recognised in UK law, the case was not about sex equality, but in April 1996 the ECJ found to the contrary that the directive should be interpreted broadly, and that it therefore 'precludes dismissal of a transsexual for a reason related to a gender reassignment'.[120] Though this case was not directly about gender recognition, it was nonetheless a major reversal for the UK Government's position that trans people could in all instances be treated as the sex assigned to them at birth with no regard for their identities or medical histories, and it signalled to the UK trans community that progress was indeed possible. The next big leap came in the 1998 ECtHR case *Sheffield and Horsham* v. *United Kingdom*, in which two trans women – including Kristina Sheffield, a founding member of Press for Change – claimed that their European Convention rights under Article 8 (privacy), Article 12 (marriage and a family life), Article 13 (recourse to legal remedy before a national authority), and Article 14 (freedom from discrimination) had been violated because the UK would not permit them to change their civil status and thus participate in society on their own terms. The twenty judges unanimously concluded that Articles 13 and 14 had not been violated, while two found that Article 12 had been violated. On Article 8, though, *nine* of twenty found violation – a narrow defeat for the litigants and a sign that things were moving in their direction. The court also encouraged the UK Government to keep its policies under active review, criticising its inaction after past judgments.[121]

In the Home Office, Catto told Straw in August 1998 that after this ruling it would be 'very difficult to continue to do nothing',[122] though she

remained convinced that the government need not address all issues affecting trans people at the same time, suggesting that the trans community would 'grudgingly accept that a change in birth certificates alone was worth having'.[123] Already bearing the blessings of the Cabinet, and imbued with a new urgency in light of the ECtHR's criticism, Straw's push for a review was finally made good in September 1998 in the form of the Interdepartmental Working Group on Transsexual People, tasked by its terms of reference to 'consider, with particular reference to birth certificates, the need for appropriate legal measures to address the problems experienced by transsexuals, having due regard to scientific and societal developments'.[124] Some members of the government saw trouble ahead in the arena of public relations. Later in September, Geoff Hoon, Parliamentary Secretary to the Lord Chancellor, noted in a communique that whereas the public announcement of the working group would be 'welcomed by transsexuals and their supporters', the news was 'likely to be received much less positively by those holding more traditional views on the family', perhaps provoking difficult questions 'at a time when policy is still to be developed'. He thus favoured 'a low-key approach'.[125]

In a joint submission to the working group in February 2000, PfC and a group of allied organisations including the Gender Trust, the Gender Identity Research and Education Society (GIRES), and Liberty laid out their preferences for a system for changing one's official gender, expressing support for a two-stage process in which the applicant would be required to undergo a period of living 'in role' to dissuade those who might later wish to revert to their gender assigned at birth.[126] They proposed a 'Gender *Confirmation* Certificate' as the means by which this change of gender would take place, as opposed to the 'Gender *Recognition* Certificate' that was ultimately created in 2004. The former implies an affirmative acknowledgement of something that is already true – that the applicant *is* a man or a woman – whereas the latter implies a qualified acknowledgement of acquired characteristics. Compulsory sterilisation of recognition applicants (*à la* Sweden) was discouraged because it resembled 'negative eugenics',[127] while requiring nullification of existing marriages was also

dismissed on the grounds that it could ‘lead to uncertainty and prolonged litigation both for the individuals involved and for the state’.[128] Liberty’s individual submission argued that ‘[f]uture birth certificates should not contain any reference to “sex” or gender identity’ but that a legal recognition process was a good short-term fix.[129] Curiously, PfC’s individual submission differed somewhat on marriage, noting:

> Just so long as single sex marriages remain illegal, we concede that it may no longer be possible for marriages between person[s] of the opposite natal sex to proceed when one partner has had their new gender role officially recognised.[130]

Notwithstanding tonal differences like this, trans organisations and their allies successfully left a unified political imprint on the working group. The files kept by the working group show extensive communication with trans groups throughout the evidence-gathering process, and in fact many of the documents kept are simply printouts of articles from PfC’s website. Letters and emails from socially conservative organisations like the Church of England’s Board of Social Responsibility are thin on the ground by comparison.[131] Being thus influenced, the *Report of the Working Group* (2000) found:

> The most frequently mentioned concerns of transsexual people are the wish to have a birth certificate showing their new gender, to marry in that gender and, most importantly, the grant of legal recognition of their acquired gender for all purposes.[132]

It identified three roads forward: (1) ‘to leave the current situation unchanged’, (2) ‘to issue birth certificates showing the new name and, possibly, gender’, and (3) ‘to grant full legal recognition of the new gender subject to certain criteria and procedures’. Finally, the working group recommended a public consultation to determine the best course of action.[133]

In the summer of 2002, the ECtHR intervened again in the cases of *Goodwin* v. *United Kingdom* and *I.* v. *United Kingdom*, deciding at last that the UK had violated Articles 8 and 12 in its treatment of the trans litigants.[134] Legal scholar Ralph Sandland captured the mood among trans sympathisers when the news arrived in the UK:

> At last! After numerous failed attempts to dislodge the disreputable and distasteful, crudely biologically essentialist, logic of Ormrod J. in *Corbett v. Corbett*, which has been a blight on the freedom [of] transsexual people in Britain for three decades, the European Court of Human Rights finally ran out of patience with the British Government and its courts. … We *can* escape from the spectre of *Corbett*.[135]

The Labour government was caught off guard by the 'unexpectedly wide and far-reaching' rulings.[136] For officials in the Department of Social Security (DSS) and the Constitutional Policy Division of the Lord Chancellor's Department, this was an unwelcome additional workload and a veritable political minefield. The document 'Proposed Legislation on Transexual People: Policy Summary', circulated late in 2002, outlined a preliminary model for legislation to allow medically vetted trans people to change their official documentation, including birth certificates, to reflect their gender identity. It also specified that the government would 'not seek to erase all traces of transsexual people's past histories, but rather … reduce to an unavoidable minimum the occasions in which those histories have to be revealed'.[137] A DSS circular titled 'Transsexual Persons Bill: Project Plan', the second version of which is dated 21 January 2003, recounted the actions already been taken. Responsibility for this policy area was assigned to the Lord Chancellor's Department in June 2001. Ministers then moved 'early in 2002 to … re-convene the Interdepartmental Working Group on Transsexual People, to give balanced consideration to the issues affecting transsexual people'. The circular described the *Goodwin* and *I* rulings as 'two unexpectedly wide-ranging and unanimous judgments', observing that, as the Labour Party had made 'no manifesto commitments' on this subject,

the resulting bill would need to be squeezed into an existing programme.[138] On the issue of marriage, the summary stated that applicants should not be required to annul existing marriages, even if this technically rendered them same-sex unions. This was sure to attract accusations that the government was ‘sanctioning same-sex marriage’, but it was argued that mandating annulment would be an unfair and unprecedented step.[139] Policy circulars from late 2002 and early 2003 suggested that the impact of this decision ‘should be minimal’ because fewer than 1,500 trans people were thought to be married,[140] though the Department for Work and Pensions objected,[141] arguing that setting a precedent that same-sex couples were eligible for marriage benefits might lead to ‘vast financial consequences for the benefit system’.[142] These concerns were, for the time being, overshadowed by the need to avoid further ECtHR intervention.

A draft public announcement by the Lord Chancellor in November 2002 read: ‘The Government sees no reason to enforce the ending of such marriages, which were perfectly legal and valid when contracted.’[143] However, while describing mandatory annulment as ‘grossly unfair’, one document acknowledged that this would be a difficult path to take ‘unless the Government can sustain criticism of allowing same-sex marriages’.[144] Important people had doubts. A circular penned by Matt Adams from the State Pension Centre on 15 January 2003 noted that it was the preference of the Lord Chancellor to preserve existing marriages, but that this position was contested by Tony Blair, the Prime Minister, with his Policy Adviser Emma Churchill informing those actively working on the legislation that ‘the Prime Minister had reservations in allowing existing marriages to remain, as it was felt that this could be perceived as permitting same-sex marriage’.[145] Sometime between Churchill’s memorandum (late 2002) and January 2003, Blair’s position shifted, though it is not clear precisely why. One possibility is that letters from April Ashley, the trans woman at the centre of the *Corbett* v. *Corbett* case in 1970, changed his perception of the issue by giving it human form.[146] Churchill simply explained that he had ‘reconsidered the issue of pre-existing marriages’ and maintained ‘no objections in principle’ to the Lord Chancellor’s position. This was

communicated to the Deputy Prime Minister, John Prescott. Civil servant Matt Adams, who had himself warned that allowing marriages to continue 'would weaken our ability to resist pressure to pay benefits to same-sex couples that currently are available only to married couples', also fell in line at this point, stating that his office was 'now inclined to agree' with the continuation principle.[147] This was not the end of the issue, but the preparatory work could at least continue under the presumption that mandatory annulment was off the table.

Media reactions to these developments diverged widely. For some, this was the next logical step in the evolution of a tolerant, caring, liberal society; for others, it was a lethal blow to sanity – and worse, a blow struck by politically correct European technocrats. The former view was represented mainly in two newspapers. One was the *Independent*, which welcomed the opportunity to overturn the 'ghastly anomaly' of trans people's legal non-existence.[148] The other was the *Guardian*, which followed the court cases and the government's response closely,[149] often featuring lengthy quotes from PfC activists.[150] That is not to say that the paper's writers were unequivocal. One staff writer, Vivek Chaudhary, penned several articles about the supposed dangers to the integrity of women's sports should they be legally compelled to let trans women compete.[151] Others opposed the reforms on grounds of medical authority. On 16 July 2002, the paper published a letter from Dr Ruth Berkowitz of the Portman gender clinic in London calling the ECtHR rulings 'a victory of fantasy over reality' that risked 'reinforcing a false belief it is possible to actually change a person's gender' and 'strengthen[ing] the view that the only solution to psychic pain is a legal or surgical one'.[152] Most infamously of all, Julie Burchill and Julie Bindel published two vitriolic opinion pieces in the *Guardian* in the early 2000s. Burchill's piece on 20 January 2001 referred to trans people as 'trannies' and attacked the very concept of gender-affirming care.[153] Bindel's piece, titled 'Gender benders, beware', was even more seething. She wrote: 'I don't have a problem with men disposing of their genitals, but it does not make them women, in the same way that shoving a bit of vacuum hose down your 501s does not make you

a man.'[154] These articles were the exception to the relatively sober norm in the *Guardian* at this time.

Anti-trans views benefited from a larger readership and a greater propensity for emotive language and hyperbole. Whereas pro-reform coverage generally failed to connect trans recognition to a broader political or cultural mission – save the vague projects of liberal tolerance and international law – anti-trans figures integrated their distaste for trans law reform with their complaints about internationalism, government overreach, European integration, multiculturalism, and political correctness. In words strongly resonant with the populist rhetoric heard during the 2016 Brexit campaign and later 'woke mob' narratives, John Torode of the *Daily Mail* claimed in December 1995 that Britain was 'appeasing Europe' by obediently following the whims of the ECtHR, reporting that aides to Deputy Prime Minister Michael Heseltine were incensed by a series of rulings 'in favour of assorted terrorists, drug barons, gipsies, squatters and transsexuals'.[155] Other writers at the *Mail* warned that allowing trans people to marry or continue marriages in their new legal gender 'would be likely to pave the way for legalised homosexual marriage',[156] that the mooted reforms would 'enable another "victim" group to trump our very understanding of what it means to be a human being',[157] and that the effort to 'falsify sexual identity' would 'make criminals out of people who tell the truth', thereby 'unravelling' society 'through the substitution of irrational feelings for demonstrable facts'.[158] Neil Clark of the *Spectator* also decried the allegedly irrational 'human rights industry', predicting that if left unchecked it would lead to 'the "advanced" world imposing sanctions on a country not honouring an International Convention of Transsexual Rights'.[159] Coverage in the *Telegraph* was staid by comparison. Its writers mostly agreed that trans law reform, though a genuine effort by decent people to do right, went much too far. Barbara Amiel explained that, as 'a liberal or libertarian', she wanted 'people to be able to do whatever they want' so long as one did not 'cross the threshold that separates senselessness from common sense'. By allegedly 'turning reality on its head', legal recognition for trans people crossed that threshold in her

mind.[160] The pervasive emphasis on common sense and good manners was indicative of the genteel lens through which *Telegraph* contributors tended to view the issue. They expressed concern for the sensitive handling of this 'delicate matter' and the need to avoid 'embarrassment', such as that which, as one writer put it, might arise in the locker rooms of ladies' golf clubs should trans women be made welcome.[161] Loss of face was a more immediate concern in the *Telegraph*'s political niche than the portended end of sanity, sanctity, and sovereignty at the hands of conniving European judges. This lower ambient temperature convinced some supporters of law reform that *Telegraph* readers could indeed be reasoned with, as Emma Martin, 'a clinical psychotherapist specialising in gender identity', attempted to do in her January 2004 letter:

> although the arguments of those opposing the Gender Recognition Bill … may appear reasonable at first glance, they are well off-target. The intention of the [Bill] … is to return equality to those people who were born with an incongruence between their sex and gender, not to allow men to dress in frilly knickers and win the Lady's Championship at Wimbledon. … The need to bring ones [*sic*] sex and gender into congruence is just that, a need, not a whim, fancy or perversion. Unfortunately the gender that is firmly ensconced within the brain cannot be changed. … The sex, however can be changed to match the gender identity, thereby allowing transsexual people to live normal productive lives.[162]

Coverage in the *Times* was tonally similar. The staple broadsheet actively sought input from those with first-hand experience of trans life in Britain, usually presenting these stories in a neutral editorial light,[163] and it printed impassioned pro-reform letters from trans people.[164] As with the *Guardian*, women's sport was the issue that provoked the most intemperate rhetoric. On 8 February 2003, Andrew Clennell predicted that, should trans law reform become reality, 'The caricature of beefy women athletes who seem more like men than women will soon be beyond a joke – some women

competitors really would be men'.[165] The 17 December 2003 issue of the *Times* featured two articles on the subject. Melissa Kite envisioned a 'bizarre sporting world in which men pretend to be women in order to win Wimbledon', putting 'the entire future of competitive sport in jeopardy'. Kite continued: 'Gone would be the old certainties in favour of a brave new era where the "high-testosterone 100 meters", "the low-testosterone Wimbledon final" or even "the medium-testosterone heavyweight championship of the world" would adorn sporting calendars.'[166] Meanwhile, John Goodbody speculated that recognition for trans people could open the floodgates to tactical transitioning, since a 'tennis player can be average as a man but the same person can be a championship contender as a woman'.[167]

Mixed media reactions presented several challenges to the image-conscious Labour government. If it did not include strong enough exceptions in the new bill for sporting and religious bodies, it would be accused of wrecking sport and violating religious freedom. If it allowed married trans people to remain married *and* change their legal gender, it would be accused of laying the groundwork for, or straight-up legalising, same-sex marriage. And in all cases, it would certainly be accused by some of appeasing Europe, subverting reality, punishing truth-tellers, and trying to redefine humanity. An email sent by Janet Hawkes to numerous recipients in the government on 10 January 2003 assessed responses to the announcement of plans to introduce legislation in December 2002, observing that 'it provoked a flurry of (mainly positive) media interest, and then sank back into the undergrowth'. Although concerns were 'voiced from some religious quarters (the Evangelical Alliance and the Roman Catholic Church in Scotland)', Hawkes found that there had been no real 'sustained protest'. She signed off: 'So far so good!'[168] Rich Evans of the DSS, however, worried that the bill was 'likely to be fairly controversial', warning colleagues that 'some Parliamentarians will be disturbed – particularly if recognition is not to be limited to post-operative transsexual people and if fundamental marriage law is amended', while 'Still others are opposed to any extension of legal recognition'.[169] By the time a draft bill

was in the hands of lawmakers, the government had reversed course on its prior decision to allow existing marriages to continue, a decision that seemed to pose the fewest risks to public relations, but which made recognition functionally inaccessible to some trans people. Had this legislation been their own brainchild, ministers might well have been motivated to push through a bill that accorded more closely with their discernment, but this was not the case, and the prospect that they might be criticised for imposing 'controversial' social legislation on an unwilling public tipped the scales towards excessive caution. Evans's Project Plan offers another clue as to why the continuation principle was scrapped. The first item listed under the heading 'benefits of legislation' was the hope that the bill would 'reduce the threat of UK and European Court actions brought by transsexual people'. The creation of a 'humane, private, [and] proportionate' system to reduce the risk of trans people being 'abused, threatened, [and] unfairly discriminated against', though also listed, was given lower billing than the desire to cut the flow of embarrassing litigation.[170] The reform package needed to achieve this without opening up a parallel flow of litigation from conservative groups.

DEBATING THE GENDER RECOGNITION BILL

Rosie Winterton, Parliamentary Secretary to the Lord Chancellor's Department in the House of Commons, officially announced the government's plans to introduce gender recognition reform in a Ministerial Statement on 12 December 2002.[171] She gave more details the following day, stating that the legislation, while forced upon the UK from outside, was a natural evolution of New Labour's vision for a decent, caring, inclusive democracy: 'If democracies are measured by how they treat their minorities', she said, 'then I believe it is right that the 5,000-strong transsexual community be afforded the same rights enjoyed by the rest of us.'[172] In line with the internal documents analysed in the previous section, this statement speaks to a pyramidic view of human rights in a liberal democracy. At the base of the pyramid sit those general rights afforded to

all. As a society ascends the pyramid, it actively takes steps to do right by smaller and smaller groups, until, at the pinnacle, it moves to protect even the ‘smallest minorities in our society’.[173] The Gender Recognition Bill was thus to be interpreted as a symbol of the UK’s advanced equalities status and New Labour’s commitment to enshrining values of equitability into the constitution, a message that was reinforced by the fact that the Under-Secretaries of State for Constitutional Affairs, Lord Filkin and David Lammy, were tasked with guiding the bill through parliament. While the government philosophised, allies of PfC in the Commons attempted to hurry matters along. Hugh Bayley said on 8 January that the question most often asked by his trans constituents was ‘not whether the Government will legislate, but when the Government will legislate’,[174] while Vince Cable also detected ‘a real sense of urgency’ in the trans community, querying whether it was possible for the government ‘to expedite the legislation’.[175] On 18 December 2003, in a speech officially introducing the Gender Recognition Bill to the Houses of Parliament, Lord Filkin emphasised New Labour’s concern that ‘no one is left behind as we create the conditions for a credible and effective modern democracy’.[176] Responding directly to the ECtHR’s ruling that the UK Government had violated the right of trans litigants to their privacy, Filkin also specified that the bill would ‘ensure that this intensely private matter can remain private’.[177] On marriage, however, the government had fully about-turned on the position developed internally between 2000 and early 2003. The first draft of the bill, dated 23 May 2003, included a clause restricting full gender recognition to those not married at the time of their application and those whose marriages had been annulled subsequent to a preliminary approval of their application.[178] Filkin elaborated:

> The Bill must also account for the situation of transsexual people who are in an existing marriage. Such marriages will not be able to continue. The Joint Committee on Human Rights recommended that existing marriages should not have to end. However, there is an issue of principle at stake here. Marriage is an institution for opposite-sex couples. … This

> Government are not going to change the fundamental nature of the institution of marriage in this way.[179]

It is no small irony that the state's recognition of the reality of trans people's gender identities was leveraged as part of its reasoning for requiring married trans people to sunder their unions. Filkin's logic would not have made sense had it been the official position that trans people belonged only *nominally* to the sex/gender with which they identified, as in that case a marriage between, say, a cis woman and a recognised trans woman, which the bill proscribed, could be seen as an 'opposite-sex' arrangement, and a marriage between a recognised trans woman and a cis man, which it permitted, would be a single-sex union. With the most contentious aspect of the draft legislation taken out, the Houses of Parliament set about debating the other particulars of the bill. The conversation began in earnest in December 2002 and concluded with the final vote on the bill in May 2004, but in many ways the debates simply continued a discussion that started in 1996 with the deliberations on Carlile's short-lived effort.

For the sake of comprehensiveness, and as a reflection of the continuity of themes between these two clusters of debates, I will analyse the discussions pertaining to the Carlile Bill and the Gender Recognition Bill together. With that said, six points of contention stand out in the parliamentary record: (1) the moral and civic character of transsexuals; (2) the size of the transsexual community; (3) the potential implications of the legislation for religious bodies and marriages; (4) the influence of Europe; (5); the integrity of single-sex spaces, especially in sport; and (6) the medical aetiology of transsexual conditions. Separate debates were held in the Scottish Parliament on the bill's implementation north of the border.

In a wider sense, it is noteworthy that most of the disagreements between those opposed and in favour of the legislation hinged on the *interpretation* of central facts that were themselves uncontroversial, such as the idea that there were very few transsexuals in Britain, or the opinion that religious bodies should have the right to discriminate against trans people.

Since both sides appeared to have the same axioms at heart, there was little if any interpersonal hostility. Backbench Labour MP Kali Mountford said that she 'and many transsexual people whom I know, expected a much more heated debate than we have had',[180] while Chris Leslie, a Parliamentary Under-Secretary of State for Constitutional Affairs, exclaimed that he had never seen 'such a thorough, sensible and calm debate'.[181] This tranquillity in the midst of a tense media environment was emblematic of the 'Press for Change philosophy', premised as it was on using a syntax of gradualism and respectability to create a broad coalition.

One very obvious hurdle that the bill had to clear was the way that trans people were typically discussed in popular culture – as peculiar and unfamiliar creatures who lived outside the bounds of the 'normal'. Consequently, the first plank that proponents of reform moved to lay down was the idea that trans people are in fact responsible, discreet, well-integrated members of society who hold down reputable jobs, raise children, maintain committed monogamous relationships, and wish simply that their transness be kept invisible. When bringing his bill to the Commons in February 1996, Alex Carlile urged fellow MPs against 'the idea that transsexuals are not playing their full part in society', and mentioned that he had trans acquaintances who were Oxford dons, lawyers, doctors, executives, civil servants, and healthcare workers.[182] Roger Sims spoke in support of Carlile's legislation and recalled having first been exposed to the issue at the previous Conservative Party conference. There, he met the organiser of a PfC fringe meeting (Christine Burns) who, he was impressed to find out, was 'a branch [Tory Party] secretary, chairman of her supper club and typical of the ladies whom many [MPs] know in their constituencies'.[183] Tim Boswell, a Conservative spokesman on constitutional affairs, likewise commented in 2004 on his interactions with a trans constituent who 'is a former senior [civil service] official'.[184] In addition to having good careers and high social standing, the ideal trans person as imagined at Westminster was also indisposed to publicity. During the committee stages of the bill, Lord Filkin reassured Baroness Buscombe that there would not be a public spectacle: 'Typically, rather than trying to

attract attention to themselves, transsexual people are keen to live their lives in a discreet and ordinary way. Most transsexual people are aware of public sensitivities and take care to avoid causing alarm or offence.'[185] David Lammy also reiterated that 'persons with [gender dysphoria] do not want to be exposed in public',[186] while Lynne Jones, a key advocate for trans law reform, argued that 'far from being florid, strange characters, [trans people] are normal human beings who just want to lead a normal life and get on with working'.[187] Labour's Shaun Woodward read from a letter sent to him by a trans constituent asserting that:

> the likes of me just blend into the crowd. I go to work, do my job, everyone likes me. I do not go around shouting for my rights on the radio and television, I just want to live a normal life which is in fact what I do on a daily basis.[188]

The message was that this reform was a benevolent concession to a meek, inoffensive, peaceable, small, and innocuous community – a community that, if given legal recognition, would melt into the broader population and cease, effectively, to exist. Even the most uncompromising opponents of the bill generally accepted that the average trans person fit this description, but the integrity of these portrayals rested on an expectation that trans people would *remain* invisible; that they would be grateful for every scrap of legitimacy sent their way and forever conduct themselves in a muted, even submissive fashion. The impossibility of living up to this standard, and the existence, therefore, of exceptions, was exploited by the detractors of the bill. Conservative evangelical peer Baroness O'Cathain, for instance, highlighted the trans community's record of strategic litigation:

> The Government seem to think that all transsexuals are delightful, kind and tolerant. Most people are delightful, kind and tolerant, but we cannot accept that … there are not some who are nasty, unkind and intolerant. The Bill potentially hands the more aggressive transsexuals a legal stick with which to beat those who disagree with them.[189]

O’Cathain’s apprehensions were widely shared. Conservative MP Andrew Selous said that while ‘most transsexual people are mild mannered [and] do not want to cause offence’, all groups have ‘a small minority of people who are litigious, sometimes aggressively so’.[190] Liberal Democrat MP Colin Breed concurred that some people might leverage the bill to ‘pursue a litigious or vexatious case’ against churches should they refuse to provide services consistent with their legal gender.[191] Even Tim Boswell, a passionate supporter of the bill, expressed concern that some trans people ‘will seek to make a point by flaunting exaggerated behaviour’ as a result of their newfound legitimacy, which ‘might have consequences in terms of the way in which people behave in public places’.[192] Inherent in these various warnings is the presumption that ‘litigious’ behaviour from trans people would be improper in the wake of the bill’s passage, even if there were clear grounds for legal challenges. Lawmakers wanted this legislation to bring closure to a long period of litigation, not extend or accelerate it.

A second recurring theme is the assumption that the trans community was vanishingly small. As with the idea that the median trans person was of high moral character, the ‘fact’ that there were only 5,000 trans people in the United Kingdom was accepted by nearly everyone, though each side utilised this factoid differently. Among reformers, the trans community’s purported smallness was invoked to emphasise how enlightened and generous they believed the bill was, with David Lammy pointing out that this was ‘perhaps one of the smallest minorities on behalf of whom the House has sought to assist by passing equality measures’, and arguing that it fell upon parliament to protect them because they ‘are vulnerable, and they have experienced significant prejudice’.[193] Tim Boswell agreed that ‘the test of how civilised a society is rests in part on the care and respect that it gives to minorities’.[194] Meanwhile, those against the bill believed that it benefited too few people to justify the legal chaos they thought it would create, and took issue with the assertion that it would ‘cause no foreseeable harm’ to the rest of society.[195] Specifically, Baroness O’Cathain argued that adjustments for this small minority group could have unforeseen consequences for the freedom of religious institutions to discriminate in

situations where sex segregation is doctrinally required. ‘The Government say that the Bill is necessary to protect the rights of 5,000 transsexual people’, she stated, but ‘what about compassion for the millions of people who do not want their most precious religious beliefs trampled upon by the courts?’[196] From her perspective, it was necessary to conduct a cost-benefit analysis weighing the interests of the trans community in a zero-sum equation against the interests of the ‘millions’ of other people who might wish to exclude trans individuals from their spaces and services. An interesting corollary to this line of reasoning is the reaction of Labour ministers to suggestions that since so few trans people were reported to be in existing marriages, the state should just allow those marriages to continue. Lord Filkin drew a line on this point: ‘One could argue that this concerns only 50 people, but I am sorry, that will not do. We are not going to allow same-sex marriage.’[197] New Labour’s willingness to be flexible for even the ‘smallest communities’ had its limits.

This leads us to the third area of contention – whether religious institutions ought to have a right to circumvent a Gender Recognition Certificate (GRC) holder’s new legal gender status. As with the prior two subjects, the *principle* was not under discussion; almost every speaker agreed that religious bodies *should* have the right to discriminate, and that it would be unjust to impose trans inclusion upon them. Where members of both houses disagreed was on the question of whether the bill *would* undermine that independence. Some opponents, including most of the Lord Bishops of the Church of England (clergymen who sit in the House of Lords), feared that the bill’s measures to protect trans people’s gender histories from public scrutiny would functionally destroy the clergy’s ability to determine whether they were inadvertently consecrating a ‘same-sex’ marriage (e.g., a union between a trans man and a cis woman). If they were unable to request a copy of the original birth certificate, the Lord Bishop of Winchester wondered, how could they ‘know the truth about the person who has approached them for marriage?’[198] The Lord Bishops of Southwell and Winchester sought full clerical exemption from the privacy aspects of the bill on these grounds,[199] while in the House of Commons, Reverend Ian

Paisley, the firebrand Northern Irish unionist, said that the bill violated ‘the believer’s right to freedom of religious expression’.[200] However, it would not be correct to say that all clergypeople in Westminster accepted this point of view. The Lord Bishop of Worcester was keen to dispel the impression that ‘organised religion always takes one view of the question’, arguing that trans people, having ‘been through a nightmarish life experience’, deserved access to the full solace of religion.[201] (Perhaps surprisingly, Baroness Turner of Camden, Vice-president of the British Humanist Association, agreed, suggesting that these ‘rather damaged individuals’ were ‘the very people who are most likely to need the consolations of their religious belief’.)[202] Others saw this as much ado about nothing, reasoning that even if the bill created a few marriages that were legally same-sex, the numbers were so small as to be inconsequential. Lord Lucas worded this ‘who cares’ perspective most memorably: ‘A person who has his testicles shot off is not then compelled to become unmarried … the reality is that they are still a man and woman married to each other, whatever they may call themselves or whatever lie may have been put on the statute book and the birth certificate.’[203] The government stuck to its refusal to countenance even a single same-sex marriage, being adamant that clergy would be ‘at perfect liberty to continue to refuse to solemnise a marriage of anyone whom they know or believe to be a transsexual’.[204]

The fourth point of contention was the fact that the bill was necessitated by rulings from abroad. When Baroness Amos, Leader of the House of Lords, confirmed in January 2003 that the legislation would be going ahead, she noted that it ‘honours the Government’s commitment to implement the judgments of the European Court of Human Rights and to ensure that transsexual people are given the rights that respect their identity’.[205] Labour MP Hugh Bayley also observed in January 2003 that the UK had ‘no choice but to change the law because the European Court of Human Rights has said that we must’,[206] while Lord Filkin later added that only two of the fifteen EU countries – Ireland and the UK – were yet to create a process for trans people to attain official recognition, saying that ‘it is about time we rectified that’.[207] These statements reflect a simple reality: that there would

have been no Gender Recognition Bill within the same timescale without the ECtHR. For some, like Tim Boswell, this intervention was a necessary corrective to the UK's tardiness, since it appeared that 'left to themselves, the Government might have been content to let the issue lie'.[208] For others, most of all the Eurosceptic and populist elements at Westminster, the ECtHR was attacking UK sovereignty and meddling in both biblical and scientific facts for the sake of 'feelings'. Lord Chan, for one, argued that the UK should refuse to implement the rulings because they entailed 'a situation in which personal feelings and beliefs are given precedence over verifiable medical evidence',[209] a sentiment echoed by Lord Tebbitt.[210] Baroness O'Cathain posited whether, 'if Europe required us to legislate that sheep could become goats and goats sheep, we would do it', asking indignantly: 'Is there no point at which common sense would override and the Government would say, "No, that is simply too much"?'[211] This rhetoric appealed to the pre-existing notion that 'Europe' represented the unreasonable extremes of social liberalism, and that Britain's ability to independently assess and decide its own laws was being eroded. As Tory MP Julie Kirkbride complained in a statement to the *Daily Mail* in 2002: 'The Strasbourg court is dictating to Britain what we should do about a sensitive issue. The law should be for the British Parliament and British courts to decide.'[212] Trans recognition was added to the long and ever-expanding list of conservative and Eurosceptic grievances regarding the allegedly corrosive role of European institutions in Britain.

One curious aspect of these records is the relative marginality of the issue of single-sex spaces, especially public bathrooms and changing rooms, which is today one of the most vexed subjects in the so-called 'trans debate'. Far more time was spent on ladies' prayer meetings and the Women's Institute – the latter of which, Lord Filkin felt compelled to specify, would not be impacted by the bill[213] – than on bathrooms, which were only mentioned a few times in tens of hours of speeches from 1996 to 2004, usually in passing and rarely as a cause for concern. David Lammy said that he hoped and expected that 'the vast majority of transsexual people – if not all of them – will use the facilities appropriate to their

acquired gender'.[214] Sport was the only sex-segregated space or activity that was debated at length, though even here, few expected that trans people would compete in sufficient numbers to create a problem, and fewer still felt it necessary to directly regulate their participation. Lord Goodhart made a brief comment that he saw 'no reason' why a trans man 'should not be eligible to compete in a men's golf tournament if they are able to qualify', but it was ultimately up to the organisers and regulators to make the call.[215] The loudest voice on this topic was Lord Moynihan, the Conservative Shadow Minister for Sport and later chairman of the British Olympic Association, who consulted sporting bodies including the Football Association, the Rugby Football League, the Ladies Golf Union, and the Motor Sports Association, all of which, he said, had requested a total exemption from having to include trans women.[216] Lord Filkin pointed out that it was already stipulated in the Bill that sporting bodies would retain the right not to include trans women in women's categories if they believed it might endanger 'competitive parity', and he was adamant that it would 'not be possible for a man simply to declare that he is of the opposite gender and then compete in women's competitions',[217] but this did not stop Moynihan from prophesying the death of sport 'as we have known it'.[218] Whether trans women retain physical advantages after undergoing hormone replacement therapy, and how this changes based on the age at which the therapy begins, is a complicated subject that I will not get into here; the pertinent point is simply that the bill left the matter in the hands of sporting bodies and offered no definitive resolution to these questions.

Of all the area of discussion in the parliamentary records, the issue of medical aetiology – i.e., what 'causes' transsexualism or gender dysphoria – is unique in that it exposed fundamental disagreements on points of principle, not simply on the varying interpretation of shared facts. Supporters of the bill followed the information given to them by experts in the field and advocacy groups like PfC in viewing gender dysphoria as a legitimate medical condition,[219] and they had little trouble accepting that surgical transition was a life-long solution regretted by few.[220] As the subject was framed as a matter of medical authority, otherwise socially

conservative individuals could express support for trans law reform without changing any of their underlying views on social morality. In 1996, for instance, Roger Sims noted that while his opinions on gay people were ‘conventional’ and he opposed having gay priests in the Church of England, he felt that transsexuality ‘was something very different’ because it concerned cases in which ‘nature did not get it quite right – where nature made a mistake’.[221] The medical requirements of the bill were held up as reassurance that clinical expertise would play a critical role in the process of obtaining a GRC. Recognition would *only* be available to those who possessed a professional diagnosis and undertook ‘the fierce crucible’ of the ‘real-life test’ period.[222] Chris Leslie noted approvingly that the bill was discussed ahead of time with the British Medical Association, the Royal College of General Practitioners, the General Medical Council, the British Psychological Society, and the Royal College of Psychiatrists, with no fundamental objections having been raised.[223] Most opponents, however, insisted that transsexuality was a psychological disturbance to which the only remedy was tough love and corrective therapy. Gender-affirming care, they said, was a web of ‘fiction’ and ‘lies’ that served only to entrench a sufferer’s misconceptions and make the rest of society complicit in dishonesty. Lord Tebbitt maintained that sex is a static biological trait the identification of which ‘ought to be within the ability and experience of an A-level student in biology’,[224] while he referred to transsexuality as an ‘acutely distressing psychological illness’ which ought not be humoured by law.[225] Earl Ferrers similarly argued that a person’s sex is usually ‘pretty obvious’.[226] The logical conclusion, Baroness O’Cathain said, was that ‘it is better to help [transsexuals] gently to come to terms with reality, rather than trying to change reality to fit their delusion’.[227] Meanwhile, to guard against ‘abuse’ of the system by those he regarded as victims of transient obsessions, Lord Chan proposed that surgical genital reconstruction be made a necessary precondition for legal recognition, giving ‘less committed individuals an opportunity to reconsider their position’.[228] These speakers positioned themselves as defenders of scientific truth, but they mostly based their arguments on intuitive reasoning and ‘common sense’ rather than the

findings of any researchers. This loose relationship with science can be seen most brazenly in the Lord Bishop of Winchester's confused comment that the treatment of transsexual patients had 'something to do with the Benjamin protocols or the Benjamin rules or whatever' (referring to the work of sexologist and clinician Harry Benjamin).[229] While none of these arguments derailed the bill's passage through Parliament, the issue of transsexuality's aetiology, or 'cause', was left unresolved at the political level.

All told, the Gender Recognition Bill cleared the House of Lords with a final vote of 155 ayes to 57 noes on 10 February 2004, and cleared the House of Commons with a vote of 355 ayes to 46 noes on 25 May 2004. By this time, it was clear that the bill would also be applied in Scotland. The Scottish Parliament in Edinburgh, created by the Scotland Act 1998, had both the power to alter the bill's implementation within its jurisdiction *and* a significant faction of members with the political will to exercise that power, as was made clear by its growing engagement with LGBTQI+ issues. The first prolonged mention of trans people in the Scottish Parliament came in October 2003 during an Equal Opportunities Committee session on civil partnerships, when Tim Hopkins of the Equality Network, a Scottish LGBTQI+ advocacy group, argued that making civil partnerships available to mixedsex as well as same-sex couples would give trans people an opportunity to 'have their true gender recognised in law – that is, their brain gender as opposed to their body gender'.[230] A few months later, the Scottish Parliament began debating whether the Gender Recognition Bill should be transposed into Scottish law without a separate Scottish Bill – via a mechanism called the Sewel motion. At a meeting of the Scottish Equal Opportunities Committee on 9 December 2003, representatives from groups including Press for Change, Transmen Scotland, LGBT Youth Scotland, and Transalba were invited to give their views. Andrea Brown of Transalba took issue with the 'institutional outing [of] transgender people' enabled by the bill's requirement that existing marriages be dissolved, and she called for a new clause to permit existing marriages to continue. The UK Government's intention to charge GRC applicants an administrative fee also concerned

her, as this could make it ‘impossible’ for people working in low-income jobs or living on benefits to pursue recognition. Ultimately, though, Brown considered it best to ‘have the bill as it is in place’ and then ‘have it tidied up’ later in the Scottish Parliament. On another note, George Burrows of LGBT Youth Scotland argued that the requirement for an applicant to be 18 years-of-age to apply, when one could ‘finish compulsory education, get a job, live on your own and have responsibilities’ at 16, represented a ‘discrepancy’ in the bill, while Zara Strange of PfC argued that Scottish applications for a GRC should be handled *in Scotland*, because ‘If there is to be an appeals process, a lot of people would find it expensive to travel to the panel if it were set up in the south of England.’ However, the discussion did not produce a consistent rationale for a separate Scottish Bill or for a refusal to implement the new law.[231]

On 28 January 2004, Hugh Henry, Deputy Minister for Justice in the Scottish Executive, outlined three ‘compelling reasons for the use of a Sewel motion for the Gender Recognition Bill’, these being: (1) the Bill covered some areas of legislation, including benefits and pensions, that were subject to reserved matters (policy areas where Westminster reserved the right to have the final say); (2) there was no suitable gap in the Scottish Parliament’s legislative schedule to introduce a Scotland-specific bill; and (3) it would ‘undermine the principles of the bill if transsexual people were afforded full recognition in some areas of the United Kingdom but not in others’. Henry argued that ‘the right balance has been struck’ in the bill, and that it would not be right to enable 16-year-olds to change their legal gender because the requirement for an applicant to live a two-year period in their desired gender role would mean that for these applicants the process would have to begin at 14, which would be ‘a step too far’. Scottish National Party (SNP) Member of the Scottish Parliament (MSP) Steward Maxwell asked why there would be no separate Scottish Gender Recognition Panel, to which Henry responded that the costs involved were ‘disproportionate’ given the ‘small number of people’ likely to apply in Scotland.[232] There was some push-back on this point. Nicola Sturgeon of the SNP, later First Minister in the government that would introduce a Gender Recognition Act

(GRA) reform package in the shape of the Gender Recognition Reform (Scotland) Bill in 2022, made the strongest case for a distinct Scottish bill in a plenary session on 5 February. Though she 'strongly support[ed] the principles of the Gender Recognition Bill', she believed the Sewel motion was inappropriate because the bill covered 'controversial' areas of law that were devolved. Sturgeon explained her viewpoint:

> People do not send us here as MSPs to hand huge chunks of legislative power back to London while we fritter the hours away on motherhood-and-apple-pie debates that change little in Scotland. They do not send us here to duck responsibility on devolved issues just because they might be morally difficult. Sooner or later, the Parliament and all its members will have to emerge from the shadows of the Section 28 debate and have the courage to take the lead on difficult issues such as gender recognition.

Sturgeon also dismissed Henry's assertion that there was no time in the Scottish Parliament's schedule, pointing out: 'The ECtHR cases that made the Gender Recognition Bill necessary were decided in 2002, so it would have been perfectly possible for the Executive to timetable such a bill in its legislative programme for this year.' This was connected in Sturgeon's mind to the much grander issue of Scottish autonomy. 'We must be careful not to set in stone', she said, 'the dangerous precedent that when the Executive deliberately fails to act, it can use that inaction as a justification for handing over our powers to London.' Green Party MSP Patrick Harvie expressed a similar dissatisfaction, noting that the lead Holyrood committee on this policy area, the Justice 1 Committee, had only 'a single hour in which to scrutinise the bill and probe the minister'. He feared that Westminster's lack of interest in 'taking specific evidence on the Scottish aspects of the bill' could cause 'errors [to] be introduced into our law'. However, Liberal Democrat MSP Margaret Smith encouraged colleagues to 'give the go ahead to this flawed but effective Sewel motion', thereby enabling 'the UK to move forward swiftly to legislate in this area and, in so doing, fulfil its obligations under the ECHR'.[233] In the final vote, 76

members supported the Sewel motion, 25 opposed it, and 7 abstained. There would be differences in the implementation of the law north and south of the border, but there would be no distinct Scottish legislation as yet.

RECOGNITION AT LAST

The Gender Recognition Act attained Royal Assent on 1 July 2004, and came into effect on 4 April 2005 as an Act ‘to make provision for and in connection with change of gender’. It created a new administrative implement, the Gender Recognition Certificate, which makes the recipient ‘for all purposes the acquired gender’ after the date of issue, ‘so that, if the acquired gender is the male gender, the person’s sex becomes that of a man [and vice versa]’.[234] Non-consensual disclosure of a person’s change of legal gender by a third party is a fineable offence.[235] Applicants are required to be at least 18 years of age at the time of application,[236] and their cases are handled by a dedicated Gender Recognition Panel consisting of legal and medical members.[237] To award a GRC, the panel must be satisfied that the applicant:

> (a) has or has had gender dysphoria, (b) has lived in the acquired gender throughout the period of two years ending with the date on which the application is made, (c) intends to continue to live in the acquired gender until death, and (d) complies with the requirements imposed by and under section 3.[238]

Section 3 explains that applicants must provide a report by a registered medical practitioner or a chartered psychologist ‘practising in the field of gender dysphoria’, alongside another report by a registered medical practitioner of any specialism.[239] The cost of applications was set by the Gender Recognition (Application Fees) Order 2005, establishing a tiered structure – £140 for those with an income greater than £22,575, £30 for those with an income greater than £15,050 but less than £22,575, and nil for

those with an income less than £15,050.[240] A fast-track process was created to allow those who have changed their gender within an approved list of foreign nations to attain recognition in UK law.[241] An itinerary of applicable jurisdictions was created by the Gender Recognition (Approved Countries and Territories) Order 2005, most of the listed countries being in Europe, North America, and the 'Old' Commonwealth.[242] Prior to the Marriage (Same Sex Couples) Act 2013, if the applicant was married, only an Interim GRC could be issued until the marriage was dissolved. An existing union was not permitted to continue as a same-sex marriage under any circumstances.[243] Of the exception clauses in the Act, two became particularly controversial. First, organisations 'responsible for regulating the participation of persons as competitors in an event or events involving a gender-affected sport' may bar GRC holders 'to secure (a) fair competition, or (b) the safety of competitors'.[244] Second: 'A clergyman is not obliged to solemnise the marriage of a person if the clergyman reasonably believes that the person's gender has become the acquired gender under the Gender Recognition Act'.[245] While the Act pertains in the first instance to the recognition of *gender* (or *sex* – the distinction in the Act is blurry), it draws upon and modifies a much wider range of recognised bodies and phenomena, including marriages, qualifications, devolution, other nation-states, and religions. The Act grants the successful applicant access to this system *as a man* or *as a woman*. As such, it could just as accurately be titled the Recognition (Gendered Permutations) Act or the Citizenship (Gender Identity) Act. Its functionality owes to the fact that it is *not* siloed purely to 'gender' as an abstract matter of identity.

Notwithstanding sensationalised predictions about the end of women's sports and the violation of common sense, media responses to the actual passage of the GRA were surprisingly sparse, although Stephen Cragg of the *Times* hailed it as a 'practical and sensible' measure.[246] More extensive commentary came from academics. In his widely cited 2005 article, Ralph Sandland argued that, seen in its best light, the GRA 'interrupts the orthodoxies of gender that law has peddled',[247] marking 'a new openness of texture, a new fluidity, to the legal construction of gender'.[248] He praised it

for going ‘further than strictly required by the European Court’, referring to the choice not to limit recognition to ‘post-operative transsexuals’.[249] However, Sandland also regretted the ‘cruel’ marriage clauses,[250] and was especially critical of the Act’s failure to recognise ‘any gender identity between, above, below, and most significantly beyond, the desire for lifelong gendered conventionality’.[251] In an equally influential 2007 piece, Andrew Sharpe acknowledged that the Act was ‘rather clumsy’ in its confusion of sex and gender, but described it as ‘remarkable in numerous ways’, having put the UK ‘at the forefront of global transgender law reform’.[252] Its main drawback, in his view, was its ‘general reluctance to contemplate gender in non-binary ways’,[253] a problem that ‘future reform may have to address’.[254] More recently, Paddy McQueen praised the ‘symbolic importance’ of the Act and noted its potential within a ‘(trans)feminist perspective’ to further a ‘movement to accept, rather than eradicate, diversity and to respect the embodied realities of all individuals, trans or otherwise’.[255] In *Recognizing Transsexuals: Personal, Political and Medicolegal Embodiment* (2011), Zowie Davy argues that the GRA ‘offers another way of recognition’, bucking the norm in Europe by positing ‘that surgery or the ingestion of hormones is not required by Transsexuals in order to be recognized legally’,[256] in theory allowing for ‘*queer* gender recognition through non-normative bodily aesthetics’.[257] Most of her interview subjects believed the GRA was ‘a step in the right direction’, even if their rights were still ‘constrained’.[258] Sally Hines, meanwhile, found that most of her trans interviewees viewed the GRA as ‘a long awaited extension of cultural value [to trans people], which positively shaped psychological well-being’, although they ‘were not so naïve to think that the law would create total social harmony’.[259] An overarching problem noted by participants was the lack of recognition for those outside the gender binary, effectively ‘dividing the world into good trannies and bad trannies’.[260]

On the more critical side, David McArdle lambasted the sports exception as ‘a badly and hastily drafted provision, inserted late in the day to appease the sports lobby and its mouthpieces’, heralding by implication

‘the unwelcome return to the concept of the “average” person in legislation’.[261] Emily Grabham, meanwhile, noted that the requirement for an applicant to declare their intent to live in their acquired gender until death ‘positions trans subjects as potentially “too fluid” for citizenship and in need of some kind of gender restraint’, expecting them ‘to perform (and produce) gender permanence in a way that non-trans citizens are not required to do’.[262] Firm criticism also came from anti-trans feminist and conservative Christian scholars. In a 2006 Ecclesiastical Law Society conference paper, Julian Rivers dissected the religious exception clauses in the GRA and the Gender Recognition (Disclosure of Information) (England, Wales and Northern Ireland) (No 2) Order 2005. The latter stipulates that one’s gender history *can* be disclosed should religious bodies require it to make an informed decision as to one’s membership, employment, or marriage within the organs of the faith.[263] Rivers dismissed these provisions as ‘the barest minimum necessary to satisfy international human rights standards of religious and associational liberty’, and as ‘narrowly drafted exceptions’ that were likely to be ‘narrowly interpreted by an unsympathetic judiciary’.[264] Sheila Jeffreys, a feminist opponent of trans ‘ideology’, described the GRA as ‘retrogressive legislation which inscribes traditional gender roles into law so that they can be identified and regulated by the state’. She argued that it served the aims of trans activism, accused by Jeffreys of being ‘a gender preservation movement’.[265] She complained that ‘no women’s or feminist groups made submissions in the lead-up to this Act’, blaming this partly on lawmakers, who acted ‘as if it was not the concern of women or feminists to be involved in the discussion of these issues’.[266]

Many non-binary and non-gendered people’s appraisals, written mostly in the late 2010s and early 2020s, have been equally damning, though for different reasons. All the way back in 2000, the *Report of the Interdepartmental Working Group on Transsexual People* acknowledged that ‘some [trans people] alternate between the two sexes throughout their lives’,[267] but the GRA made no accounting for them. Non-binary scholars Meg-John Barker, Ben Vincent, and Jos Twist describe the GRA as ‘a

heavy blow as it meant that non-gendered people were excluded from protections and rights afforded to others'.[268] Flora Renz, another scholar, accuses the GRA of implying by omission that non-binary identities 'don't matter' because it 'retains the purely binary understanding of sex and gender'.[269] Perceiving the GRA to be an effort to preserve as much of the status quo as possible, Renz judges that even had it introduced a third gender option, this would simply have handed the state 'a new normative category for the purpose of assimilation of currently non-normative genders'.[270] Caterina Nirta reaches the same conclusion, arguing that 'this legislation is in place to ensure … loyalty to gender'.[271] One consistent voice in this school of thought is non-gendered activist Christie Elan-Cane (per/perself), who rose to prominence in 1993 after being interviewed about per life and identity-affirming surgeries on BBC Radio 4's *Tuesday Lives* programme. Nigella Lawson heard the interview and dismissed these surgeries as 'self-mutilation' in her *Evening Standard* column, further elevating per public profile.[272] Elan-Cane's vision for the rights of non-gendered people was set out at *GENDYS 2K: The Sixth International Gender Dysphoria Conference* (2000) in a paper titled 'The Fallacy of the Myth of Gender'. 'My solution', per explained, 'is that the bi-polarised gender system should be broadened to create a legitimate space for the non-gendered identity. The non-gendered identity will become a recognised social identity or category … alongside the existing gendered identities of male and female.' Per believed that the cause of non-gendered people's oppression was the fact that they were 'systematically denied an identity' in society and law. Overturning this would grant the non-gendered individual 'access to all the social amenities that are presently being denied'.[273] Per also insisted that self-determination, not some panel of 'experts', should be the final arbiter of identity ('I am the person most qualified to know how I self-identify').[274] By sidestepping non-binary and non-gendered identity forms altogether, the GRA ensured its functional irrelevance to people like Elan-Cane,[275] who wrote in a 2015 letter to the Labour Party's then Shadow Equalities Minister:

> The GRA was the most discriminatory piece of legislation that I can recall and the many diverse sections within the trans* community who were excluded from its narrow remit still suffer the consequences …. We were betrayed by the GRA and betrayed by those trans* activists who … steered this through. Shame on them! I know with certainty that history will judge them far less favourably than such time that the GRA became law and they were collecting their citizenship awards.[276]

Three years later, Elan-Cane wrote that 'the GRA represented the death knell of hope because there would be no further movement on trans "rights" for years'.[277]

Even many of those who had spent a good portion of their lives fighting for the GRA were circumspect after it became law. Scholar Michael Biggs has described the GRA as 'Press for Change's crowning achievement',[278] but few, if any, of its activists denied that the crown's ornaments were blemished. During the bill's journey through the civil service and parliament, PfC tried to exert pressure on ministers to make the Act more closely reflect its ideals, and in some ways it did so with enviable aptitude – one internal government document on the name of the GRC 'authorising body' (i.e., the panel) carried, in bold capital letters, the instruction: '**(CONSIDER AND ASK PFC)**'.[279] However, some matters were simply out of the group's hands. In a 'Checklist for the Bill's Completion' appended to a September 2003 submission to the Joint Committee on Human Rights, the organisation argued that the bill 'should protect the rights of existing families, by not requiring dissolution of pre-existing marriages as [a] pre-condition of legal recognition'.[280] On this point, PfC was resigned to imperfection. Clare McNab concluded in 2004 that the bill, though sub-optimal, was 'the best we can get … [and] the choice is between this bill and nothing'.[281] Stephen Whittle, by this time a respected legal scholar, confidently predicted in November 2003 that the GRA would meet '99% of the needs of 95% of trans people who wish to live permanently in their new gender role', but he accepted that significant problems remained.[282] In a later piece, he explained that he and other activists had

ultimately concluded that defeat on marriage was an acceptable temporary compromise, the ‘best possible outcome’ being ‘an easy access route to a Civil partnership’ for the effected parties, which was secured in the Civil Partnership Act 2004.[283] Whittle took a long-termist view, the Act being in his mind only one imperfect component in a much larger project to undo the injustices of the binary gender system: ‘The Act does not intend to be revolutionary … it was all about keeping Trans people’s home fires burning.’[284] In another article co-authored with Lewis Turner, Whittle noted that the implementation of the Act has largely been dependent on the whims of the Gender Recognition Panel, and having sat in on some of the panel’s early sessions, his impression was that its inaugural president ‘wanted confirmation that gender reassignment surgery had been undergone’ despite this not being a requirement in the Act.[285] In her own retrospective assessment, Christine Burns downplayed the GRA’s flaws as ‘collateral damage’, including the fact that married trans people ‘were thrown under the bus by the Labour government in order that religious opponents could be appeased’.[286] These issues were thought to be unfortunate but necessary sacrifices that would require corrective action at a later date.

As for the utilisation of the Act by trans people, the UK Government Equalities Office reported that by 2018 nearly 5,000 Gender Recognition Certificates had been issued.[287] After a spike in applications beginning in 2021, this had risen to 8,464 by December 2024, representing 80% of all applications (some were rejected and some were still being processed).[288] On its face, then, PfC’s estimate as to the size of its core constituency was roughly correct, the relevant group being a four-figure community. However, even within the bounds of this restricted frame of reference, there were clear signs that the GRA did not ‘finish the job’, so to speak. It forced married trans people to choose between their vows and recognition. It did nothing for those who lacked medical approval or desired no diagnosis. It permitted sporting bodies to exclude trans people based not on specific metrics, but on the nebulous aim of ‘fair competition’. It left trans members of religious bodies in an anomalous position. It did not recognise genderfluid, nonbinary, or non-gendered people. And, of course, it offered

no direct solutions to problems like systemic bigotries in the civil service and police, anti-trans discrimination in business and housing, and the patchy availability of genderrelated care in the National Health Service. A great deal remained to be done.

3

Horizons (2004–23)

At a February 2024 event marking twenty years since the Gender Recognition Act and the Civil Partnership Act, Baroness Ruth Hunt, the former Chief Executive of Stonewall, described the years from 2003 to 2013 as the ‘decade of assimilationism’, a time when gay and trans organisations strained to avoid perceptions of ‘messiness’ or not being ‘normal’ by trying to make their communities ‘look simple’, full integration into the capitalist economy apparently being the extent of their ambitions.[1] There is some truth to this narrative, although it is more fruitful to think of this as a transitional phase in which activists were experimenting with new ideas and searching for the next horizon, sometimes taking the path of ‘assimilationism’ and other times adopting a more radical and transformative stance. For several years, legal recognition took a back seat to other priorities – largely for practical reasons. If the experience of formulating, promoting, and passing the Act was anything to go by, it could be assumed that a ‘GRA Part II’ would be a decade-long project at the very least – and anyway, few as yet had a clear idea of what a reform bill would look like. This situation would not fundamentally change until the mid-2010s, when recognition was placed back at the top of the agenda of many trans groups for reasons that will be explored later.

The debate on what should come next began before the GRA even came into effect. In their opening remarks at the GENDYS conference in 2004, Janett Scott and Tamara Wilding, president and vice president of the Beaumont Society, hailed the acceleration of positive change in attitudes towards trans people. ‘By far the biggest change has been getting back the

right to change our birth certificates,' they said, 'and there will be other great changes to come in the not-too-distant future.' The potential seemed to be there for activists to push harder and further than before, but the tendency towards political splintering in the community, so noticeable in the 1970s and 1980s, emerged again, with little indication of a synergy. As Scott and Wilding observed:

> These days, there are many of us working closely with the police, or serving as Women police officers or as male police officers. We have Transgender members of the Army and Air Force. We have Transgender people in prison, who are accepted for gender treatment and receiving Gender reassignment surgery. We have made great strides in being accepted by official government bodies, yet we are still not accepting the differences between ourselves. [It is] saddening when members of different support groups can't find a common ground to accept each other. It has to begin at the top.[2]

Rachel Wallbank's address also touched on the sheer range of potential avenues. She laid out a comprehensive manifesto, declaring that the 'fundamental human rights of people who experience transsexualism' must include the right 'to express gender at odds with [one's] legal sex without suffering persecution and harm', the right 'to be diagnosed as experiencing transsexualism without being diagnosed as suffering a mental illness or disorder', and the right of trans children and adolescents 'to receive personal, medical and legal support for the affirmation of their innate sex'. Wallbank's list also included access to medical care and the ability 'to live a full and fulfilling life, without the need for stealth'.[3] Each speaker's thoughts on the future of trans activism were heavily shaped by their views on the GRA itself. Tracie O'Keefe, Professor of Sex, Gender and Sexuality at Calamus International University, stressed that the GRA was not a step forward for everyone. She explained that she had been able to marry her partner, a cis woman, because she still possessed a male-marked birth certificate, but as a visibly lesbian-coded couple, the two wives had

struggled to secure ‘equal rights to pensions, inheritance, tax concessions and so on’, causing them to feel singled out. Into this scenario, the GRA introduced the terrible prospect that O’Keefe would have to annul her hard-fought-for marriage to be eligible for a GRC – something she was not willing to do. Thus, noted O’Keefe, the GRA ‘will not affect me and will not redress my lack of human rights despite all the years I campaigned’. Nor, she continued, would the GRA help those who did not desire any official gender.[4]

Despite their unwillingness to delay legal recognition for those who might be able to get it, Press for Change’s leaders were well aware of these problems, and their determination to push ahead owed more to the calculation that it was better to get *something* on the books than to any illusions that the GRA was perfect. O’Keefe recalled being told by Stephen Whittle:

> this is probably the only chance we will have to get a bill placed for many years and if dissention [*sic*] in the ranks derailed the bill, then it was unlikely that such a bill would be tabled for many years.

She conceded that ‘Stephen was probably right’, but despaired that for many gender-nonconforming people the GRA was ‘a disaster’, having ‘put the sex and gender diversity movement back years’ by ‘reinforc[ing] bipolar male/ female stereotypical heterosexual views of human sex, gender and sexuality’. For some, O’Keefe said, the GRA did naught but ‘marginalise them ever more to the edge of what is acceptable’. The solution seemed obvious: ‘Sex and gender status needs to be determined by self-determination, not by a panel of people, medical, legal or otherwise who know virtually nothing about that person’s life.’ As for the realisation of this idea, much depended on what the likes of Whittle would do with their newfound legitimacy. O’Keefe said:

> I hope that those who benefit from this bill will not abandon those of us who gave up so much by not rocking the boat so at least some of you

could have the freedom you are about to receive.[5]

Whittle would indeed campaign for GRA reform, though his enthusiasm was not shared by all, nor was it clear in 2004 when there would be an opportunity to set things right.

BUILDING A POST-GRA AGENDA

Emboldened by its strategic victory in 2004, PfC pivoted its attention to other issues, publishing detailed reports on subjects like the barriers to trans people's participation in sports and leisure activities,[6] access to specialist healthcare,[7] and the problem of transphobia in British society.[8] Christine Burns writes that '[t]hree distinct themes' emerged for PfC after the GRA, these being 'the behaviour of the media, access to better health care and continued improvements in the law'. She notes that the new priorities were 'propagated to the Parliamentary Forum',[9] and indeed Lynne Jones recalls that 'the big issue for the Forum' from 2004 to 2010 was 'the appalling institutional transphobia within the health service'.[10] PfC also worked alongside the Sexual Orientation and Gender Identity Advisory Group to help ministers and civil servants better understand LGBTQI+ issues.[11] Not everyone felt energised for the challenge, though. Some activists, like Clare McNab, faded from public view after the GRA became law, the stress of campaigning and the incessant prying of the media having taken their toll. Others took on different projects; Christine Burns, for example, was occupied by her new role as Equality & Diversity Programme Manager at NHS North West.[12] She resigned from the Parliamentary Forum on Gender Identity (formerly the Parliamentary Forum on Transsexualism) in April 2011, citing a lack of representation from newer advocacy groups and suggesting that remaining members 'ask themselves whether the present generation of active campaigners have [any] clue who they are or whether they would consider you equipped to advise on what they need'.[13] There had been, she noted later, an 'explosion in consciousness and creativity' among younger generations of trans people during the mid-2000s, and it

seemed time to hand over the reins.[14] Burns and Whittle became patrons of LGBT History Month (February), a public awareness initiative part-funded by the Department for Education in November 2004.[15] They also received honours (an OBE for Whittle, an MBE for Burns) in 2005 for their services to the trans community, and Whittle became president of the World Professionals Association for Transgender Health in 2007.[16] April Ashley, whose case partially instigated Mission Recognition in 1970, resurfaced briefly when she was awarded an MBE in 2012.[17]

Besides PfC, the Beaumont Society and the Gender Trust also remained on the field, and pushed for, among other things, anti-discrimination measures in the civil service.[18] They were among the groups that came together in February 2005 to form the UK Trans Alliance (UKTA), a new attempt at a coordinating body. The UKTA's Declaration of Intent showed a continued interest in recognition with its resolution to '[a]cknowledge the diversity that exists within the trans community and respect that definitions of gender identity will at times be relative not absolute', but it also hinted at a more systematic attentiveness to other issues. These included the need to 'promote the better understanding and knowledge of the trans community in all its diversity within society at large', to 'act in concert in discussions with statutory bodies which are influential in supporting the needs of or providing goods or services to trans people', and to 'remove any negative barriers or stereotypes from society that adversely affect the trans community'.[19] Some activists felt that this kind of broad cultural transformation would be more impactful than legislative milestones. Jay Stewart, who co-founded Gendered Intelligence in 2008, describes his 'project' at the time as 'not so much seeking legislative change, but instead seeking to shift culture, to change the environments that trans people find themselves in'.[20] Gendered Intelligence thus centred its efforts on research and public education, not legislation. As Stewart later argued: 'Fundamental to improving the lives of trans people, and young trans people in particular, [is] to educate the people around us.'[21]

A more confrontational style of activism was also emerging, influenced by US transfeminist luminary Julia Serano's book *Whipping Girl: A*

Transsexual Woman on Sexism and the Scapegoating of Femininity (2007). Serano's idea – not new, but not redundant either – was that 'trans activism must be at its core a feminist movement', and more than that, it must be an *intersectional* movement, because trans women in particular are 'positioned at the intersection of multiple binary gender-based forms of prejudice: transphobia, cissexism, and misogyny'.[22] Former Cambridge city councillor Sarah Brown describes the influx of young minds in the late 2000s as an 'activist new wave', with many participants being influenced by *Whipping Girl* and cognisant of the US context from which it drew, including the more aggressive tactics used by some US campaigners. In 2008, Brown and other activists organised in-person protests at the Manchester Queer Up North Festival, a conference of the Royal Society of Medicine on puberty blockers, and a Stonewall award ceremony in response to the inclusion of openly trans-exclusionary speakers. In the case of the award ceremony, this individual was Julie Bindel, an anti-trans radical feminist columnist who wrote the vitriolic article 'Gender benders, beware' for the *Guardian* in 2004. According to Brown, around 150 people turned up to express their anger at Stonewall for associating with Bindel. This kind of 'guerilla activism' contrasted sharply with the alleged 'pleas for moderation and compromise' that Brown recalls coming from the 'trans elders' in PfC.[23] The new wave also rejected the organisational separation of gay and trans activism in the 1990s because it saw LGBTQI+ liberation as one interconnected web of objectives,[24] a stance taken by gay and trans groups in California as early as the 1960s.[25] There was nothing inevitable about this split in the UK – it was mostly the result of a strategic calculation made by PfC. In a note inserted in Brown's chapter in *Trans Britain* (2018), Christine Burns states that Stonewall and PfC 'had very little to do with each other' because they 'were both good at their own specialisms', but it is precisely this arms-length relationship that Brown rejected as artificial and ineffectual.[26]

'New wave' perspectives also influenced developments in Scotland, where gay and trans politics were quickly becoming institutionally entwined. As narrated by Scottish trans activist James Morton, the Equality

Network, an LGBTQI+ advocacy group which had been one of the main Scottish forums and platforms for trans politics since its foundation in 1997, began advocating as early as 2003 for ‘a non-medicalised self-declaration gender recognition process’.[27] After this failed to materialise in the GRA, the network founded the Scottish Transgender Alliance (later Scottish Trans) as a dedicated transled initiative. The Labour-Liberal Democrat Scottish Government awarded the Scottish Transgender Alliance a funding grant in 2007, and later that year the incoming Scottish National Party Government, being (in Morton’s words) ‘keen for the rest of Europe to recognise Scotland as a progressive, innovative country’, extended the funding.[28] SNP politicians later boasted that theirs had been ‘the first Government in the whole of Europe to provide funding to a transgender organisation’.[29] From 2007 onwards, the Scottish Transgender Alliance’s primary aims in relation to trans rights were to establish specific protections for non-binary people in the Offences (Aggravation by Prejudice) (Scotland) Act 2009, an endeavour in which it was successful, and to improve access to healthcare and public services, which yielded mixed results.[30] By that time, the cultural environment was becoming exponentially more difficult throughout the UK.

The years immediately following the passage of the GRA were seen by some activists as a time of unprecedented advances in public attitudes. Trans journalist Jane Fae describes the mid-to-late 2000s as ‘an era of peak sympathy for trans people’,[31] while Alice Purnell observed in 2004 that representations of trans people in popular media were getting much more positive.[32] However, increased public awareness also gave pretext to a mounting moral outrage led by right-wing news outlets like the *Daily Mail*.[33] Conservative pundits in these years continued to entertain the old apocalyptic narratives that circulated in the early 2000s, such as the claim that if trans acceptance went too far, then women’s sports would be ‘invaded by transsexuals’,[34] or that the NHS was ‘rushing’ patients towards hormone replacement therapy.[35] Other popular points of outrage included the accusations that taxpayer money was being ‘wasted’ on ineffective gender-affirming treatments,[36] that religious groups would be forced to

abandon their beliefs about sex and gender,[37] and that a vaguely defined conspiracy of activists, medical doctors, and civil servants was working to shut down discussion on the subject and punish dissenters.[38] In 2009, trans radio presenter Paris Lees founded Trans Media Watch to address these claims and promote 'greater accuracy, dignity and respect for trans people',[39] recognising that trans politics in the post-GRA era was as much about countering misinformation as it was about pushing for change.[40] All the while, trans people carried on fighting for respect within an altered legal landscape, and pursued individual litigation, sometimes successfully, to force public bodies to honour their existing rights.[41] Progress also came in the shape of legal protections for trans people in the Employment Equality (Sex Discrimination) Regulations 2005, the Equality Act 2006, the Public Sector Gender Equality Duty 2006, and the Sex Discrimination (Amendment of Legislation) Regulations 2008.[42]

While the post-GRA agenda was for some people a matter of building on the foundations laid by the GRA, for those whose interests had been left out of the Act the distinction between the pre- and post-GRA eras was moot. One representative of this latter group is Christie Elan-Cane, the non-gendered campaigner encountered in the previous chapter. Reeling from a feeling of abandonment by per ostensible kindred, Elan-Cane's low-profile activism in the 1990s and early 2000s kicked into a higher gear after 2004, when a distinct list of policy priorities for the liberation of non-gendered people began to solidify in per mind. Even more than had been the case in the 1990s, Elan-Cane's work rarely if ever overlapped with established trans advocacy groups, and indeed this parting of streams poses a challenge to any clean periodisation of trans political history in the UK, including the periodisation that has been followed in this book. If the chronology of mainline Mission Recognition as experienced by well-connected advocacy groups can be divided into rough thirds constituting the fallout from *Corbett*, the build-up to the GRA, and a post-GRA recalibration of aims culminating in a campaign for GRA reform, then non-gendered activism over the same span looks more like a single continuum in which the GRA is of little import, except as a synonym for betrayal. In the summer of 2007,

Elan-Cane began working with per MP, the Liberal Democrat Simon Hughes, to formulate a bill to 'offer legal and social recognition to individuals who do not identify as male or female' by creating 'a non gender-specific option to be included alongside existing male and female gendered options'.[43] The first post on per campaign blog in 2008 repeated per main assertion from the Gender Dysphoria Conference in 2000: 'It is impossible for any human being to function within a society that does not recognise their existence and fails to acknowledge their right to be.'[44] Per first priority was thus to introduce legislation to elevate the non-gendered individual 'from a non-person into a human being of equal value and worth'. The second aim, and the one that would occupy much of per time, was to convince the Office for National Statistics (ONS) to include a third option alongside 'male' and 'female' in the national census.[45]

Elan-Cane wrote hopefully in 2010 that 'there is a sense of change in the air',[46] and was satisfied that the 2011 Action Plan for trans equality, on which more below, committed the government to a review of how gender identity is handled on passports, although this never yielded Elan-Cane's desired 'X' marker.[47] By July 2012, hope had again turned to frustration.[48] With years of direct private engagement with government agencies having produced little besides vague promises, Elan-Cane began to employ other methods, including public petitions, launching two in 2012 – one demanding that the protections of the Equality Act 2010 be extended to non-gendered people,[49] and another demanding the legalisation of 'X'-marked passports.[50] In 2014, sympathetic MPs started tabling Early Day Motions (EDMs) in support of these measures. Each EDM earned greater support than the last: first 40 signatures (January 2014),[51] then 80 (June 2014),[52] then 101 (November 2015).[53] On 15 September 2017, Elan-Cane announced proceedings to force a judicial review of 'the UK Government's ongoing refusal to permit the issuance of non gender-specific "X" Passports to UK citizens whose identities are neither male nor female',[54] but on 22 June 2018, Justice Jeremy Baker of the High Court of England and Wales ruled that the government's refusal to issue 'X' passports was not unlawful.[55] In 2021, deflated but determined, Elan-Cane announced per

intention to bring the issue to the ECtHR.[56] It remains to be seen if the ECtHR will deliver a decisive blow in favour of non-gendered rights more than two decades after its critical intervention in 2002.

Elan-Cane's campaign attracted unprecedented levels of public attention for non-gendered rights,[57] although not all coverage was celebratory. In a 2017 article for the *Spectator*, for example, Melanie Phillips rejected the legitimacy of non-normative identities and joked that Elan-Cane's pronouns looked like a 'typing error'.[58] However, progressive and LGBTQI+ outlets have generally lauded per work. Elan-Cane secured a spot on the 'ones to watch' addendum to the *Independent*'s 2015 Rainbow List, an annual ranking of influential LGBTQI+ people in the UK.[59] As the High Court hearing approached in April 2018, *Gay Star News* published a personal profile of Elan-Cane, complete with a video interview.[60] This publicity contributed to a sense that 'the tide of history is turning',[61] though as yet there are very few concrete examples of regulatory or legislative change. Looking back on per public life, one theme stands out: an intense idiosyncrasy born of necessity. Elan-Cane repeatedly tried to engage with wider trans activism,[62] but struggled to garner much support from mainstream advocacy groups. Per view of the GRA cemented per alienation from mainline Mission Recognition. In 2018, per warned that the government's consultation on GRA reform was just 'smoke and mirrors', and refused to have anything to do with it.[63] This story therefore feels like stepping into another world; a reality where PfC and the GRA are marginal at best. For Elan-Cane, attaining 'recognition' is not about medicalised bureaucratic procedures for moving from one gender to another. It means *statutory self-declaration* and new legal categories. The totemic issue for Elan-Cane, the thing that per believes would herald per acceptance as a human being *without* a gender identity, is an 'X' marker on per passport. This would obviously not signal the final defeat of the stigma and bigotry faced by non-gendered people, but it *could* mark a paradigm shift. In that respect, at least, per thirty-year effort very much resembles PfC's philosophy, the *symbolism* of recognition being of far greater salience than the brass tacks.

‘SPECIFIC DETRIMENT’

Although the period immediately after the passage of the GRA was a time of intense activity for trans advocacy groups, interest in the subject waned significantly among legislators. Trans issues were by and large appended to broader principles rather than debated on their own terms, while the GRA in particular was hardly mentioned, there being no widespread cognisance of an urgent need to reform it. That said, it was obvious enough that trans people still faced problems. Lorely Burt, Liberal Democrat spokesperson for Women and Equalities, noted in a debate on workplace diversity in June 2007 that ‘there remains absolutely no protection for transgender people unless they have had or are seeking gender reassignment surgery. The vast majority who do not want surgery – people such as transvestites and cross-dressers – will not be covered.’[64] Barbara Follett, Parliamentary Under-Secretary of State for Work and Pensions, said in response that since April 2007 ‘the duty on public authorities to eliminate sex discrimination has underpinned the specific legal protections for transsexual people in the workplace that we introduced in 1999’,[65] but she admitted that ‘a great deal of work remains to be done in respect of the trans community’.[66] Jack Straw, still serving as Home Secretary, said he was open to discussions on whether hate crime laws ‘could or should be extended to cover hatred against transgender and disabled people’,[67] following which the stalwart supporter of trans law reform Lynne Jones attempted to amend the Criminal Justice and Immigration Bill 2008 to include anti-trans animosity as grounds for increased sentences.[68] Jones’s amendment failed, a fact lamented by the generally conservative Tory MP Anne Widdecombe, who noted that it would be odd to legislate against homophobia but not transphobia in a world where the perpetrators of hate-motivated crimes against gay people generally ‘do not make a distinction’ and are just as likely to target trans people.[69]

The Equality Act 2010 was arguably the first ‘major’ legislative development in trans rights after the GRA. It instituted more robust anti-discrimination measures for trans individuals by including ‘gender

reassignment' as a protected characteristic alongside age, disability, marriage and civil partnerships, pregnancy and maternity, race, religion or belief, sex, and sexual orientation.[70] Crucially, this category covers those who *intend* to undergo reassignment but have not yet done so, a major departure from the GRA in that it shielded individuals without requiring them to supply medical evidence. Anabelle Blackburn, a scholar of gender policy, argues that including gender reassignment as a category alongside sex introduced a contradiction to the law books, for while the GRA premised the rights of trans people on their attainment of legal sameness with cis men and women, the Equality Act made 'a distinction … between trans* people and cisgendered ones, even if the trans* individual had successfully acquired a Gender Recognition Certificate'. Blackburn believes that this conceptual drift constituted 'a significant drawback, essentially removing the bite of the original GRA … [by] placing trans* bodies in a setting of difference whereby their status as trans* was central to their treatment in the law'.[71] For better or worse, the Equality Act disrupted the logic of the GRA by emphasising trans people's *distinct* characteristics rather than (just) their status as men or women. Parliamentarians debating the Equality Bill largely missed the significance of this change, even as some sought to reverse it. The Lord Bishops of Chichester and Chester, for instance, introduced an amendment requiring 'transgendering or transgendered people … to be or have been under the supervision of a qualified medical practitioner' to qualify for the protections of the Equality Act.[72] Labour ministers retorted that this would exclude the great majority of trans people.[73] The amendment was pushed aside, the Equality Act was granted Royal Assent in April 2010, and in May the 'New' Labour Government came to an end.

There was no fundamental shift in trans policy when the Conservative-Liberal Democrat Coalition Government came to power, although it is possible to speak of an acceleration along familiar reformist trajectories. In opposition, Conservative leader David Cameron sought to overhaul his party's public image as the 'nasty party' by rebranding it as a socially conscious party with a benign approach to issues like human rights and

climate change.[74] A more supportive line on LGBTQI+ rights was part of this rebrand,[75] informing two post-2010 trends that are of note here. First, Cameron's desire to 'export' British equality policies contributed to a spike in uses of the word 'transgender' in parliamentary debates, often in the context of human rights violations abroad. Second, the legalisation of same-sex marriage in England and Wales in 2013 obviated Ormrod's reasoning in *Corbett* v. *Corbett* by making gender a non-issue in marriage law. At the same time, however, LGBTQI+ people and organisations felt the effects of Cameron's economic austerity viscerally,[76] encouraging a perception in some activist spheres that trans people were on the frontlines of a class war.[77]

On the legislative front, the early Coalition years were characterised by small-scale tinkering and unsuccessful Opposition initiatives, some of which seemed to be poorly thought-out. The government saw off an attempt by Labour MPs to water down the Coalition's plan to scrap the as-yet-unimplemented national ID card system introduced under Blair. Specifically, their proposal was to keep ID cards only for trans people so that they could have identification bearing their preferred gender marker. In rejecting the idea, the government noted that if the only cards in circulation belonged to trans people, then their presenting such a card would immediately expose them as trans.[78] It did, however, promise to discuss the possibility of offering an 'X' gender marker on UK passports with the International Civil Aviation Organization.[79] The 2011 Pensions Bill attracted another unsuccessful effort from the Opposition benches. Lord Boswell of Aynho argued, in light of the ECtHR's ruling in *Grant* v. *The United Kingdom* (2006) that the UK had violated a trans woman's human rights by failing to grant her a state pension at 60, that the government should retroactively calculate state pensions for all those undergoing gender reassignment. Lord Freud, the Minister of State for Welfare Reform, pronounced this unnecessary. 'To go further than what is required of us under European law', he stated, 'would in effect gold-plate the European Court's ruling.'[80] The government introduced a few small changes of its own, including the Gender Recognition (Approved Countries and

Territories) Order 2011, an update to the 2005 order creating a fast-track for individuals who are recognised in an approved list of countries. The new order took some countries off the list and added others to avoid 'the danger of creating a system which might allow transsexual people who could not meet the criteria in the [GRA] to effectively sidestep those criteria [by travelling abroad]'.[81] The Coalition also amended the Legal Aid, Sentencing and Punishment of Offenders Bill 2012 to add hatred towards 'transgender identity' as a basis for higher sentences in criminal cases 'where the offender demonstrates hostility towards the victim'.[82]

Liberal Democrat MP Lynne Featherstone was given the Under-Secretary of State for Equalities brief, serving under Conservative Home Secretary Theresa May. Featherstone shared Cameron's passion for 'exporting' LGBTQI+ acceptance. In June 2010, the Home Office published the policy paper 'Working for Lesbian, Gay, Bisexual and Transgender Equality' which made 'a commitment to use our [the UK's] international influence to encourage other countries to advance LGBT equality'.[83] Discrimination against LGBTQI+ people in other countries emerged as a yardstick in parliamentary debates on international human rights, with the UK often being held aloft as the gold standard to which other countries should be aspiring. This chorus of queer-boasting reached its height after the legalisation of same-sex marriage in 2013, when Cameron declared that he wanted to 'export gay marriage around the world'.[84] Meanwhile, the policy document *Advancing Transgender Equality: A Plan for Action* (2011) stood as the signature expression of the May-Featherstone approach to trans rights, their goal being to empower trans people to 'participate in and make their contribution to society and the economy' by promoting 'social mobility', publishing inclusion guidance for employers, strengthening gender identity services in the NHS, catalysing attitudinal change, and tackling school bullying.[85] There was little in the way of concrete detail, in the document, but Coalition MPs proudly cited it as the world's 'first ever transgender action plan'.[86] In 2016, the Women and Equalities Select Committee (WESC) described it as 'largely unimplemented'.[87]

The single most significant change in LGBTQI+ law during the Coalition years was the Marriage (Same Sex Couples) Act 2013. This Act opened up the legal category of marriage to same-sex couples, signalling a new level of mainstream acceptance for gay and lesbian people. It also abolished the requirement that applicants for a Gender Recognition Certificate dissolve their existing marriages, a clause that no longer had any purpose because it had only been introduced to prevent same-sex marriages. In its place, Schedule 5 of the Marriage Act 2013 required GRC applicants to obtain a formal statement from their spouses giving their consent for the marriage to continue despite the legal gender of one party changing, a measure dubbed the 'spousal veto'.[88] During the debates on this legislation, Liberal Democrat peer Baroness Barker attempted to limit the 'veto' to six months, meaning the spouse would only be able to delay the GRC process for a finite time,[89] but the government objected that 'removing the right of spouses to have a say in the future of their marriage following conversion and gender recognition [does not strike] the proper balance between the rights of both spouses'.[90] After 2013, Coalition spokespeople continued to insist that 'there is no spousal veto in the Act that we passed',[91] but some, like Labour MP Dianne Abbott, complained that the clause was a sign that trans people would 'continue to be [marginalised]'.[92] There was also the issue of the damage done by the old annulment clause – as Liberal Democrat MP Julian Huppert put it, people's marriages had been 'stolen from them'.[93] Labour MP Hugh Bayley suggested amendments to offer these people retroactive restoration of their marriages and £1,000 in compensation, but since few marriages of this nature had ever existed, Labour's Kate Green said there was 'little cause for any Chancellor to be concerned' about this idea.[94] No compensation was ever offered.

Trans issues again faded into the background of politics after the Marriage Act, only occasionally resurfacing in special interest debates that did not lead to legislation. Nonetheless, important milestones were reached. In January 2014, Hugh Bayley MP initiated the first discussion of the rights of those who are neither men nor women when he asked Maria Miller, Conservative Minister for Women and Equalities, about 'the feasibility of

issuing non-gender-specific official documents to people who do not identify as a particular gender'. Miller replied that 'Non-gender is not recognised in UK law', and said that while 'a very small number of people consider themselves to be of neither gender', she was not 'aware that that results in any specific detriment'.[95] This phrase, 'specific detriment', became a rallying cry for non-binary advocates, who set about trying to raise public awareness of the problems non-binary people face when navigating a binary-gendered society.[96] Another milestone was reached in December 2014 when, for the first time, the House of Lords discussed the health needs of lesbian, bisexual, and trans women in a debate initiated by Baroness Barker, who reported what she had found out from consulting trans groups, including Action for Trans Health. In the discussion, Lord Cashman made a 'special plea on behalf of the trans community', pointing to the particular difficulties trans people can run into while trying to access healthcare,[97] and Baroness Gould of Potternewton questioned the ability of England's existing seven gender identity clinics to deliver 'enough provision to satisfy the need, for the number of people seeking such medical assistance has increased by at least 11% each year since 2004'.[98] Earl Howe, Parliamentary Under-Secretary of State for the Department of Health, promised that the government would reduce waiting times and implement new protocols for the treatment of gender dysphoria.[99] Linguistic norms also shifted considerably in the decade after the GRA, with a marked departure from medicalised monikers like 'transsexual' in favour of 'transgender' and the stand-alone 'trans'. For the year 2004, parliament's *Hansard* search function finds 205 instances of 'transsexual' and only 21 instances of 'transgender'. For 2016, it finds 131 instances of 'transgender' and only 8 instances of 'transsexual'. As already stated, this period also saw the first use of 'non-gender' in the context of trans identity (January 2014), while the term 'non-binary' was first used on 26 November 2015 by Nicky Morgan, Minister for Women and Equalities.[100] These demonyms are less phenomenologically specific, and their usage alongside each other (e.g., 'trans and non-binary people') heralded the generalisation of an expansive

communal consciousness based more on shared social and political interests than on exact medical or experiential commonalities.

MISSION RECOGNITION REBORN

Whereas the period between 2004 and 2015 had been an era of split narratives when further modifications to the gender registration system represented just one relatively small component in a wider vision for a better, happier, safer future for trans and non-binary people, in the years after 2015 recognition returned forcefully to the top of the national conversation on trans rights. The flagship aims in this renewed endeavour were: (1) to abolish the medical criteria for changing one's legal gender in favour of a system of statutory self-declaration of gender (sometimes called 'self-identification' or 'self-ID'); (2) to introduce at least one new official sex/gender option for non-binary people; and (3) to abolish the 'spousal veto'. The factors that enabled this resurgence, meanwhile, fall under two main headings: the changing size and shape of the 'trans community', and an altered national and international institutional landscape. On the first point, the acceptance of a new statistical orthodoxy – that there were not just thousands but *hundreds of thousands* of trans people – alongside the swelling visibility of non-binary people, brought an unprecedented level of attention to the GRA's rather myopic focus on trans men and women with a medical diagnosis of gender dysphoria. As Gwyn Easterbrook-Smith puts it, it was becoming more obvious in the mid-2010s that old models of recognition in the UK and elsewhere 'divide trans populations into deserving and undeserving, legitimate and illegitimate'.[101] On the second point, national discourses on trans people and the law were increasingly subject to global pressures as new standards for trans equality were set abroad. Institutional change was also taking place within the UK. Stonewall, heretofore a gay and lesbian charity that largely avoided trans politics, made the decision to fully include trans issues in its work in 2015, assigning to GRA reform the same totemic significance that it had previously given to same-sex marriage. The general popularity of the

Marriage Act 2013 across political lines increased receptiveness to GRA reform among leading politicians, who began to see self-declaration as the new equality frontier. Devolution opened further doors. Led by the SNP since 2007, the Scottish Government was eager to exercise its devolved powers to forge a new path for equality north of the border, and the GRA was one area where it had the power to clearly depart from UK precedent. Together, these factors made GRA reform feel necessary, desirable, and *possible*.

In the late 2000s and early 2010s, the statistical message delivered by trans advocacy groups shifted from ‘we are few’ to ‘we are many’. The 2008 Transgender EuroStudy concluded that Europe’s trans population, contrary to past assumptions that it would always remain small, was ‘growing exponentially’.[102] In 2009, the Gender Identity Research & Education Society claimed that 300,000 to 500,000 UK residents ‘have experienced some degree of gender variance’.[103] Its report to the 2015 WESC Transgender Equality inquiry posited a higher ceiling – 650,000.[104] A high-end estimate of 500,000 was cited in a 2018 UK Government Equalities Office information sheet,[105] while the document introducing the 2018 UK Government consultation on GRA reform tentatively offered a range between 200,000 and 500,000 based on an assumed ‘trans prevalence range of between 0.35%–1%’.[106] It was in part *because* of this hundredfold increase in the estimated size of the trans population that ambitious proposals like allowing people to self-declare their gender for legal purposes seemed all of a sudden to be achievable. The argument could now be made that, given the trans population’s magnitude, their rights should command greater urgency. Stonewall, for example, cited the ‘300,000 to 500,000’ estimate as a key fact in its submission to the 2018 GRA consultation.[107] It also became possible to rebut anti-trans arguments in new ways, as evidenced in the response to a 2017 report by anti-trans group Fair Play for Women asserting that 46 out of 113 trans prisoners in the UK were sex offenders.[108] Anti-trans agitators argued based on this claim that trans women should not be allowed in women’s spaces because they are disproportionately likely to be predatory.[109] While some trans activists

struck at methodological problems in the data collection,[110] others asked: why should the actions of fewer than fifty sex offenders impact the rights of *hundreds of thousands* of trans people in the first place? One leading activist, Shon Faye, juxtaposed this 'small cohort' of prisoners against 'the 200,000–500,000 trans people in Britain who fear being tainted – and denied civil rights – by association'.[111]

Parliamentarians continued to assume that there was a 'small number' of trans people throughout the early 2010s,[112] a practice extended to nonbinary people in 2014 when Maria Miller said that only 'a very small number of people consider themselves to be of neither gender'.[113] Westminster caught up with the new orthodoxy in 2016. The WESC cited the 650,000 estimate as part of its rationale for demanding GRA reform in its January 2016 report,[114] while Miller, then serving as chair of the WESC, cited the new statistics in December, reminding colleagues that 'it equates to 1,000 people in every constituency, and that is probably a gross underestimate'.[115] Ben Howlett MP similarly observed that trans people represent 'a significant number of our constituents',[116] and Lloyd Russell-Moyle MP reasoned in May 2018 that Britain's '300,000 trans people' deserved representation in the legislature.[117] The primacy of these estimates lasted until January 2023, when the Office for National Statistics released the England and Wales results from the questions on gender identity in Census 2021, altering the arithmetic but not the overall statistical narrative.

ONS guidance initially stated that Census respondents could select the 'sex' option that best matched their identity,[118] but Fair Play for Women launched a legal challenge on this point, leading to a High Court ruling that ordered the ONS to ask respondents for their *legal* sex as represented on a birth certificate or GRC.[119] The ONS complied, but added an optional question, asking: 'Is the gender you identify with the same as your sex registered at birth?' If a respondent answered 'No', they were given the opportunity to write down their identity. Out of 45,700,000 answers, 262,000 selected 'No' (0.55% of the UK population), of which 96,000 said they were trans men or women and 48,000 said were non-binary or had another identity, while 118,000 did not write anything.[120] Scotland's results

(stemming from a different question: ‘Do you consider yourself to be trans, or have a trans history?’) were published in June 2024, with 19,990 people answering in the affirmative.[121] This data provides for the first time the *appearance* of a one-to-one count of trans people in the UK, but there are important caveats, some of which suggest an underestimate. First, no question on gender identity was included in Northern Ireland because its Statistics and Research Agency judged it unnecessary.[122] Second, we do not know how the non-responding 6% (2,900,000) would break down, nor how many of them were, in the words of two legal scholars, ‘marginalised … individuals who remain suspicious, fearful or confused about attempts by the state or public bodies to encapsulate their lived experience in tick boxes’.[123] We do not even know how different people would interpret so subjective a query, especially when it seems to conflate the concepts of sex and gender. And third, we still have no credible idea as to the number of trans children.

There are parallel reasons to think that the census might have overestimated the figures. In October 2023, the Office for Statistics Regulation, the regulatory branch of the UK Statistics Authority, raised the concern that lower levels of English language proficiency in areas with large migrant populations may have contributed to some respondents misunderstanding the gender questions.[124] Kemi Badenoch, Minister for Women and Equalities, asked officials ‘to explore with the ONS whether because of a lack of understanding of the question the census had the number right’.[125] The ONS noted in its response to the authority that while 0.3% of the White British population and 0.4% of the population whose first language is English reported as trans, this rose to 1.6% for the Black, Caribbean, and African population and those whose main language is not English. However, it stressed that ‘While these patterns may be unexpected, this does not mean they are necessarily wrong’, pointing out that because the relevant ethnic groups have younger age distributions, a larger proportion of them are in age brackets with the highest propensity to identify as trans.[126] It also posited that some ‘trans migrants might have specifically chosen the UK because of its civil rights legislation and greater

social acceptance than many other countries'.[127] A comparative analysis of the GP Patient Census and overseas data provided 'no reason to conclude that the census statistics on gender identity were implausible'.[128] Nevertheless, the ONS retracted its accreditation of the gender identity estimates in England and Wales in September 2024, reclassifying them as 'experimental statistics'.[129]

What matters most in the context of this chapter is not the exact figure, which even in the best conditions would fluctuate depending on the wording of the question, but the fact that the number of trans people in the UK seems to be somewhere in the six-digit ballpark, and that most of these people are not even eligible for a GRC. The UK Government's 2017 National LGBT Survey found that while 92% of respondents 'who had started or finished transitioning' desired a GRC, only 12% possessed one, and it received more responses from non-binary people than from trans men and trans women, further highlighting the dissonance between current trans demographics and the provisions of law.[130] In its 2015 Transgender Equality inquiry hearings, the WESC was informed by non-binary and non-gendered activists of their total inability to obtain legal recognition and how this negatively impacted their lives, leading the committee to recommend in its final report that the government 'look into the need to create a legal category for those people with a gender identity outside that which is binary'.[131] Even if a person was eligible, they would not necessarily apply due to concerns about the invasiveness of the process. As James Morton of the Scottish Transgender Alliance told the inquiry, many applicants are left 'traumatised and humiliated', particularly by the Gender Recognition Panel's tendency to inquire into the legally irrelevant matter of the medical treatments they have received.[132] This was one of many reasons behind the WESC's conclusion:

> The Gender Recognition Act 2004 was pioneering but is now dated. Its medicalised approach pathologises trans identities and runs contrary to the dignity and personal autonomy of applicants. The Government must update the Act, in line with the principle of gender self-declaration.[133]

Characterised by Jay Stewart of Gendered Intelligence as the 'avant-garde of gendered existence',[134] non-binary activism brings the GRA's insufficiencies into relief more than almost any other societal force, accentuating the fact that it serves only a small sliver of the trans population, although there has never been consensus among activists or scholars as to how this problem should be rectified. New legislation adding an option besides male and female is a popular solution endorsed by the likes of Rob Clucas and Stephen Whittle, who argue that 'minor changes to the Gender Recognition Act (2004) would bring great change' for non-binary people.[135] This option commands broad support among non-binary people at large. Asked what would make them most likely to apply for a GRC, 72.9% of 140 non-binary participants in Mollie Gascoigne's 2022 attitudinal study on GRA reform selected the option: 'Introduce an option other than male or female'. The second most popular answer, 'Remove the proof [i.e., medical evidence] requirement', was selected by 39.3%. A full 95% of participants supported introducing a 'third sex option' in principle, while 62.9% supported 'multiple additional sex options'. Decertification (the removal of sex markers from official records) is also popular, with 56.4% support.[136] In a 2022 study by Hannah Newman and Elizabeth Peel, 85.5% of 193 non-binary participants agreed with the statement: 'The British system for assigning male/female at birth should be reformed.' A majority (57%) said they believed 'gender should be abolished as a legal status', while 78.8% agreed that 'identification as male/female should be removed from birth certificates'.[137] The report of the Scottish Government's Non-Binary Working Group, also published in 2022, noted that while there exists 'a range of views among non-binary people … about the most desirable way of providing legal recognition to non-binary people', *all* of the Working Group's non-binary community forums 'held the shared view that legal recognition of non-binary people is a crucial step in ensuring non-binary people can fully realise their rights and live equally in Scottish society'.[138]

Supporting the expansion of recognition and advocating for the abolition or decertification of legal gender are not mutually exclusive

positions, as the former can be construed as a step towards the latter. A. J. Wipfler writes in his 2016 essay on legal gender abolition that as long as we live 'in a world where gender recognition is still critical for survival', having identification that 'reflects and substantiates one's gender identity gives trans people agency over when and whether to disclose their gender history'. On a 'psychological level', it 'may also reduce the internal gender dysphoria which many trans people experience daily',[139] and for 'low-income trans women of color in particular, "accurate" ID is essential to avoiding harassment or violence, being turned away for public assistance, or being placed in dangerous sex-segregated environments'.[140] Wipfler thus suggests that 'adding an *optional* third gender category may be a good step in the short term'.[141] Lila Braunschweig, another scholar, concurs that while abolition is ultimately preferable, a third gender option 'would undoubtedly help non-conforming individuals to navigate administrative life more smoothly',[142] while Valeria Venditti holds that recognition of non-binary people is imperative in the here-and-now because 'Legal legitimation and social intelligibility [can be] a shield against discrimination and violence.'[143] Davina Cooper, a leading British advocate of decertification, acknowledges that under present conditions, recognition remains 'a pathway to dignity and respect'.[144] Certainly, doing *nothing* for non-binary people is no longer considered a serious option, which is one reason why GRA reform emerged as a moral imperative in activist circles.

The perceived urgency of reform was also elevated by institutional changes, many of which began outside the UK. In 2006, LGBTQI+ human rights experts from across the world convened in Yogyakarta, Indonesia, and compiled the Yogyakarta Principles, a suite of policy recommendations intended as a new gold standard for the rights of those who are marginalised due to their sexual orientation and/or gender identity. Principle 3 pertains to 'The Right to Recognition Before the Law', and reads:

> Persons of diverse sexual orientations and gender identities shall enjoy legal capacity in all aspects of life. Each person's self-defined sexual orientation and gender identity is integral to their personality and is one

> of the most basic aspects of self-determination, dignity and freedom. No one shall be forced to undergo medical procedures, including sex reassignment surgery, sterilisation or hormonal therapy, as a requirement for legal recognition of their gender identity. No status, such as marriage or parenthood, may be invoked as such to prevent the legal recognition of a person's gender identity. No one shall be subjected to pressure to conceal, suppress or deny their sexual orientation or gender identity.

In practice, the explanatory text of Principle 3 encourages states to '[t]ake all necessary legislative, administrative and other measures to fully respect and legally recognise each person's *self-defined* gender identity'.[145] There were differing opinions as to whether the GRA was consistent with the notion of self-definition. A 2010 follow-up report on the adoption of the Principles implied that it was, because it says of the UK: 'the lack of use of the Yogyakarta Principles in the UK is due to the fact that, in general, UK law and practice on sexual orientation and gender identity meets the standards of the Principles or exceeds them'. However, the report also made note of a 'toolkit' produced by the Foreign Office for overseas British embassy staff in 2008 which explained: 'The UK welcomed [the Yogyakarta Principles] as an important contribution to increasing understanding of these issues, but some of the Principles exceed current UK positions on human rights.'[146] This indicates that at least some UK officials knew that compliance with the principles meant substantial changes to policy. The 2016 WESC report on Transgender Equality pointed to Principle 3 as the pillar of 'current international best practice' on trans issues,[147] while Scottish National Party MP Joanna Cherry boasted in a December 2016 Commons debate that 'Since 2007, the Scottish Government have been using the Yogyakarta principle, a fully inclusive definition of gender identity, in all their trans equality policy work.'[148]

The 2010s saw an expanding international consensus that respecting a person's 'self-defined gender identity' did, in fact, require a system of statutory self-declaration, not just a bureaucratic system of recognition based on medical criteria. In 2015, the Parliamentary Assembly of the

Council of Europe adopted Resolution 2048, which recommended the creation of ‘quick, transparent and accessible procedures, based on self-determination, for changing the name and registered sex of transgender people on birth certificates, identity cards, passports, educational certificates and other similar documents’. It called on states to ‘make these procedures available for all people who seek it, irrespective of age, medical status, financial situation or current or previous detentions’.[149] The Malta Declaration of the Third International Intersex Forum (2013) went even further, seeking the total removal of gender from personal documents:

> To ensure that sex or gender classifications are amendable through a simple administrative procedure at the request of the individuals concerned. All adults and capable minors should be able to choose between female (F), male (M), non-binary or multiple options. In the future, as with race or religion, sex or gender should not be a category on birth certificates or identification documents for anybody.[150]

Then came the Yogyakarta Principles Plus 10 in 2017, an update to the 2006 document that introduced Principle 31, titled ‘The Right to Legal Recognition’:

> Everyone has the right to legal recognition without reference to, or requiring assignment or disclosure of, sex, gender, sexual orientation, gender identity, gender expression or sex characteristics. Everyone has the right to obtain identity documents, including birth certificates, regardless of sexual orientation, gender identity, gender expression or sex characteristics. Everyone has the right to change gendered information in such documents while gendered information is included in them.

The Plus 10 panel demanded an ‘end [to] the registration of the sex and gender of the person in identity documents such as birth certificates, identification cards, passports and driver licences, and as part of their legal

personality', though in the interim it recommended as a stop-gap that states maintain 'a quick, transparent, and accessible mechanism that legally recognises and affirms each person's self-defined gender identity' while offering 'a multiplicity of gender marker options' and requiring no medical evidence for changes in status.[151] However, Principle 31 did not achieve the same level of mainstream political adoption as Principle 3, and the self-declaration of gender continued to be a more immediately realisable objective than abolition. A 2020 European Commission report on gender recognition in the EU, for example, proposed that member states 'strive to adopt [legal gender recognition] procedures based on self-determination' in order to 'meet the human rights principles set out in the Yogyakarta principles'. This was to be enacted by systems that 'reflect the person's profound self-defined gender identity' and offer 'a multiplicity of gender marker options'.[152] Several states were by this time taking steps to remove the medical criteria for changes of gender and offer a third gender option, proving that alternatives to rigid binary systems were indeed viable, and giving activists in other countries new points of reference. In understanding the relationship between nationallevel activism and international-level legal precedents, it is helpful to refer to the work of political theorist Phillip Ayoub, who argues that LGBTQI+ activists often serve as 'norm brokers' by signal-boosting developments in foreign 'norm entrepreneur' countries and increasing the 'visibility' of changing standards, their aim being to pressure laggard states to catch up.[153] In the mid-2010s, the practice of norm brokering in trans activism worked in conjunction with the perception that the world was fast approaching – or had already reached – the 'Transgender Tipping Point', when public attitudes towards trans people finally 'tip' from caution or distaste to acceptance.[154] Another theorist, Elizabeth Baisley, suggests that this dynamic also applies in the policy arena, in that when 'a critical mass of states' implement policies like same-sex marriage or recognition for trans identities, these policies become less exotic and more acceptable, beginning a 'norm cascade' in which country after country follows suit.[155] What starts as a 'radical' policy in one country can thus be

transformed into a ‘normal’ policy within a few decades due to the simple fact that a path is easier to follow when many others have already walked it.

When it comes to trans law reform beyond the confines of the binary gender system, Nepal was one of the earliest ‘norm entrepreneurs’. Following a ruling by the country’s Supreme Court in 2007, Nepal introduced an ‘O’ (‘other’) gender marker as an alternative to ‘M’ and ‘F’ for administrative purposes.[156] This was hardly a fix-all – many applications are turned down,[157] while trans men and trans women can *only* apply for the ‘O’, not a switch to the other ‘binary’ option[158] – but the law was still innovative, and Nepal was praised by activist groups for the symbolic significance of the measure. ILGA-Europe’s report on *Non-Binary Gender Registration Models in Europe* (2018) describes Nepal as having set an ‘example’ by helping to prove that ‘a break in the static registration of gender as binary’ *is* possible.[159] A trickle of other countries soon followed. Denmark introduced an ‘X’ option in 2014, and Malta did so in 2017.[160] By 2021, 60 countries had introduced systems for changing one’s legal gender, of which 8 provided a third option,[161] including Canada, New Zealand, Pakistan, Bangladesh, and India.[162] Denmark and Malta also innovated by abolishing the requirement that change-of-gender applicants have a medical diagnosis, followed by Ireland and Portugal in 2018.[163] Meanwhile, state bodies in countries like Germany, Australia, and the Netherlands have taken steps to reduce the number of instances in which gender comes up on forms, a less ‘flashy’ change than third options, but in some ways more significant in that it affects everyone, not just trans people. Though not always the first to move, Europe tends to have the greatest concentration of states taking action in these policy areas. As ILGA-Europe puts it:

> countries in Europe are increasingly realizing that the binary gender registration [system] contradicts the principles of non-discrimination and self-determination. This momentum opens the door to a profound reconsideration of the ways states record and register gender, and to shed light on the diversity of gender identities, in particular non-binary ones.[164]

The changes taking place in Europe have also tended to have the greatest impact on 'norm brokers' and lawmakers in the UK due to geographical and political proximity,[165] in particular by contextualising the UK's global position – that is, whether it is ahead of or behind the curve. With no advances in gender recognition in the UK since 2004, the country seems now to be very much *behind* that curve. The GRA may once have been a 'model for reform', wrote Peter Dunne in 2015, but self-declaration was by then 'the optimal gender recognition model'.[166]

Institutional changes within the UK also contributed to Mission Recognition's rebirth. Many of these took place at the devolved level. The Welsh Parliament, lacking the relevant legal powers, has largely avoided debating trans recognition, focusing instead on issues like anti-trans discrimination and better healthcare provisions,[167] but Scotland and Northern Ireland *do* (at least theoretically) have the power to alter gender recognition law, and the Scottish Government in particular has had the political will to do so. The Scottish Transgender Alliance began its push for a Scottish GRA reform bill along self-declaration lines in 2014,[168] while TransgenderNI, a group with strong ties to the Northern Irish Women's Policy Group,[169] has been an active part of the Northern Irish conversation on reform since its founding in 2018.[170] At the UK level, human rights organisations like Amnesty International, Human Rights Watch, and Liberty added their considerable weight to the call for self-declaration in the mid-to-late 2010s.[171] Yet the most important institutional factor was arguably Stonewall's decision in February 2015 to begin campaigning for trans equality and the resulting creation of the Stonewall Trans Advisory Group (STAG).[172] In some ways, Stonewall's entry into this arena simply entailed the adaption of existing material and rhetoric – for instance, one of STAG's first actions was a poster series building on the 'Some People Are Gay. Get Over It' campaign, with the word 'Trans' replacing 'Gay'[173] – but Stonewall also brought resources and expertise that no trans group could match. In February 2017, STAG published the report *A Vision for Change: Acceptance without Exception for Trans People*, laying out its plans for a trans-led, intersectional, and collaborative campaign pursuing aims like

tackling hate crime and workplace discrimination and improving the trans community's access to sport and healthcare. But it was recognition that loomed large. For too long, STAG said, 'laws and systems have not recognised or accommodated' trans people, leaving them 'few opportunities to live authentic, honest lives'.[174] The first item on STAG's six-point manifesto was thus: 'A reformed Gender Recognition Act to secure all trans people the right to self-determination and the removal of barriers that prevent some from having their gender legally recognised if they are unsupported by their family.' Points three and five also pertained to gender recognition, calling for '[r]emoval of the spousal veto' and '[l]egal recognition of non-binary people', including 'a non-obligatory "X" category on forms and passports'.[175] Fresh from the triumph of same-sex marriage in 2013, Stonewall was amply equipped for this kind of milestone-oriented legal activism.

After the addition of Stonewall's energies and resources to the picture, uptake of GRA reform in the mainstream was, by the standards of national politics, practically instantaneous. The call for self-declaration and nonbinary recognition in the 2016 WESC report on Transgender Equality was a major turning point, helping to reduce the exoticism of the idea.[176] In January 2016, Nicky Morgan, Minister for Women and Equalities, promised to 'take very seriously' the report's recommendations, and on 1 December Caroline Dineage, the Parliamentary Under Secretary of State for Women, Equalities and Early Years at the Department for Education, pledged that the government would 'monitor the implementation of the alternative gender recognition process in other countries' and seek 'more evidence on the case for change to a self-declaration model'. Dineage described the prospective reform package as the spiritual successor to the Marriage Act 2013, boasting: 'we are the Government who introduced same-sex marriage, a defining milestone in equality. We will achieve the same milestone for our trans community by revisiting the Gender Recognition Act'.[177] WESC chair Maria Miller welcomed these statements, but called for 'unequivocal commitments to changing the Gender Recognition Act 2004 in line with the principles of gender self-declaration'.[178] Jeremy Corbyn,

leader of the Labour Party, expressed support for self-declaration in July 2017, decrying the GRA's 'invasive medical tests',[179] and then, in October 2017, Prime Minister Theresa May declared her intention to abolish the medical evidence criteria for GRC applicants.[180] May's government announced a public consultation on the GRA in July 2018,[181] though SNP MPs keenly emphasised that the Scottish Government was in pole position, having initiated plans for its own consultation on GRA reform in early 2016.[182] For only the second time in UK history, Mission Recognition had genuine momentum, but this time it had two distinct legislatures in which to make its case. It had Stonewall in its corner. It could call upon a diverse six-figure trans community and a growing suite of legal precedents overseas. Moreover, a multi-party consensus seemed to be forming. Conditions looked distinctly favourable, yet by 2023 this hope lay shattered, and GRA reform was dead. The rest of this chapter is dedicated to asking how this meteoric rise and reversal came about.

THE LONG, SLOW DEFEAT

Scotland was the first to move, launching its policy consultation in November 2017.[183] In the Ministerial Foreword to the consultation document, the Scottish Government said gender recognition reform was one of its 'major equality priorities', and explained that whereas the GRA had been 'seen as ground-breaking' in 2004, it was now 'out of date' because the application process was 'intrusive and onerous'. Therefore:

> Our proposed reforms include removing requirements for applicants to provide medical evidence and to have lived in their acquired gender for two years before applying. Some requirements would remain, such as applicants having to provide a statutory declaration to confirm they fully understand the implications of their application and intend to live in their acquired gender for the rest of their lives.[184]

Placing the consultation in its national and global context, the document cited the 2016 WESC report as a catalyst and argued that ‘the 2004 Act requirements … do not reflect the best practice now embodied in the Yogyakarta Principles and Resolution 2048’.[185] Paragraph 3.26 identified ‘a self-declaration system’ as the favoured template. The Scottish Government also intended to lower the minimum age of applicants from 18 to 16.[186] Two issues lay open-ended in the consultation document, these being non-binary recognition and possible arrangements for under-16s. The first three questions in the consultation solicited feedback on this plan and asked whether applicants should be required to commit to their acquired gender ‘until death’. Questions 4–11 covered the requirements for a valid application, the role of an applicant’s spouse or civil partner in the process (including the so-called ‘spousal veto’), and the rules around the disclosure of one’s changed gender status. Questions 12–14 asked whether recognition should be extended to non-binary people and, if so, what form that should take. Overall, this was a call for feedback on a plan that was, in its broad strokes, already decided.

The UK Government’s consultation was launched in July 2018 and differed in two major respects. First, the consultation document reflected the Conservative Party’s vision for a meritocratic participatory democracy in which the role of the government is to lift whatever barriers citizens may face in reaching their full (economic) potential. Second, it was studiously noncommittal on legal specifics. The Ministerial Foreword, written by Minister for Women and Equalities Penny Mordaunt, began with a broad ideological statement of intent:

> The Government is committed to making the United Kingdom a country that works for everyone. We want to strip away the barriers that hold people back, to create equal opportunities for people to go as far as their talent can take them.

Mordaunt explained that trans people ‘face significant barriers to full participation in public life’, not helped by the fact that ‘too few’ can access

gender recognition. The government wanted to explore options to ‘make it easier for trans people to achieve legal recognition’, but Mordaunt stressed that there had as yet been ‘no firm decisions on our eventual approach’. Unlike the Scottish foreword, the UK foreword also included a nod to factions that were broadly opposed to GRA reform, and implied that ‘women’s groups’ were ubiquitously sceptical: ‘We particularly want to hear from women’s groups who we know have expressed some concerns about the implications of our proposals.’[187] Summarising its ethos, the document says:

> Transgender individuals want legal recognition of their acquired gender and the dignity and respect that can come with it. … Ultimately, trans people argue that the system is denying too many people access to the legal recognition that they want. It amounts to an additional burden that trans people have to face when they already face a series of other barriers to full participation in wider society and to achieving the respect that they deserve. The Government is persuaded by these arguments. We want to make it easier for trans people to achieve legal recognition.[188]

The UK Government did not express a predilection towards any particular template, so the consultation was framed more as a plain data-gathering exercise. Questions 1 and 2 asked respondents whether they had applied for a GRC and what gender recognition meant or would mean to them. Questions 3–9 asked respondents whether they thought various elements of the original GRA should stay or go. Nearly half of the questions (10–19) pertained to the relationship between the GRA and the Equality Act 2010, including any potential effects on the functioning of single-sex spaces and services. Question 20 asked whether recognition should be extended to non-binary identities, and Question 21 asked for input from intersex people. The document concluded by reiterating that the GRA was not living up to the needs of trans people, and that the government ‘wants to fix it’ – somehow.[189]

A second Scottish consultation was launched in 2019 on the draft Gender Recognition Reform (Scotland) Bill,[190] and the WESC launched its own consultation after the UK Government formally rejected the self-declaration model in 2020.[191] All four consultations garnered a great mass of responses from an eclectic range of groups and individuals. Many of the individual responses were completed through third-party portals, like Stonewall's website, sometimes using pre-made templates or completed with help from explanatory text. Broadly speaking, most general human rights groups that responded to the consultations expressed partial or full support for self-declaration and/ or non-binary recognition, as did most trades unions and medical groups,[192] while conservative religious groups and trans-exclusionary women's groups represented the bulk of the opposition (as detailed in the next chapter. It would be a mistake, however, to think that these blocs were uniform; for example, numerous feminist thinkers and women's groups rejected the assertion that the proposed reforms were incompatible with women's rights, such as Welsh Women's Aid and legal scholar Esther Hodges.[193]

As for the content of the responses, pro-reform groups typically highlighted the ways in which the GRA's limitations could be considered morally 'wrong' due to the harms caused to people's lives. Stonewall declared it 'wrong for legal recognition of gender identity to depend on a diagnosis of gender dysphoria' and 'wrong for a non-binary person to be forced to identify as male or female'. On the latter point, Stonewall expanded: 'The lack of legal recognition for non-binary people compounds the discrimination and abuse non-binary people face, as it reinforces the idea that non-binary people's identities aren't valid, grounded in reality or worth respecting.'[194] It argued that the most just system was one based on statutory self-declaration,[195] while warning that in this capacity 'England and Wales have fallen behind'.[196] The Equality and Human Rights Commission (EHRC), an arms-length statutory body created by the Equality Act 2006, similarly focused on the wrongs inflicted by the old system, stating: 'Unnecessary barriers amount to an additional burden for trans people, who already face a number of obstacles to full participation in

wider society.'[197] As for remedies, the EHRC called for 'de-medicalising the process for obtaining a GRC',[198] and argued that statutory self-declaration would be 'appropriate and proportionate'.[199] On the single-sex services protections in the Equality Act 2010, it expressed a 'firm legal view that the reform of the GRA will not erode the special status of these important services and facilities'.[200] However, the EHRC differed from Stonewall in that it did not support abolition of the spousal consent clause,[201] nor did it support recognising non-binary identities in a reformed GRA (not because this was undesirable, but because it believed this change alone would not be sufficient to make a third gender legally functional).[202]

The consultation responses from Gendered Intelligence highlighted not just the practical but also the *symbolic* importance of recognition, saying that a GRC 'would mean, for many, a legal recognition in the gender people already know themselves to be'. For young people, it 'would mean the ability to be taken seriously in their gender', and might 'lessen [their] mental illhealth', while non-binary recognition 'would in effect act as a celebration and legal validation of those lives'.[203] A system that 'externally and arbitrarily' enforces identities on individuals, it said, should give way to one that 'de-pathologises and demedicalises trans lives' and thereby democratises the dignity of recognition. Pursuant to this, Gendered Intelligence maintained that the 'spousal veto' should be 'amended and removed as a matter of priority' because it implies 'that trans people are deceptive and that spouses must be protected from their partners should they wish to transition'.[204] Meanwhile, it said that offering options for under-18s (with parental consent necessary for under-16s) would be particularly forward-thinking – a 'once in a generation opportunity' for the UK 'to reposition itself at the vanguard … in a post-Brexit landscape'.[205] The pro-reform arguments were largely the same in the Scottish consultations. Scottish Trans and the Equality Network dubbed the GRA's medical criteria 'intrusive and humiliating', with applications often getting bogged down in the 'bureaucratic pedantry' of the Gender Recognition Panel, causing 'confusion and anxiety'.[206] Allowing people to self-declare their gender would put 'beyond doubt how a trans man or trans woman is

viewed by the state and the law'.[207] The Equality Network and Scottish Trans were 'disappointed', however, by the lack of provisions for non-binary people in the Scottish Government's plans.[208]

The backdrop of devolution presented some unique problems in the UK-wide consultation, as it was not entirely clear how the UK Government and the devolved administrations would interact in the sphere of gender recognition. Northern Ireland is one of two UK nations where gender recognition is partially a devolved matter, the other being Scotland,[209] but there was precious little discussion on the subject of a Northern Irish GRA reform programme until the release of a 2022 Queen's University Belfast report commissioned by the Northern Ireland Department of Finance, which found that GRA reform would have 'a significant positive impact for the transgender community' of Ulster.[210] In 2018, it still seemed that a UK law imposed on Northern Ireland was the most realistic pathway to reform in the territory. TransgenderNI thus responded to the UK consultation. It drew attention to the 'success' of self-declaration in the Republic of Ireland's GRA 2015 and noted that 'Northern Ireland has been stuck between two systems due to the [dual administration] mechanisms within the Good Friday Agreement and the conventions of mutual recognition between the two states.' This problem is exacerbated by the fact that 'although people born in Northern Ireland are normally entitled to both UK and Irish citizenship, they are only entitled to a UK Birth Certificate', meaning in practice that:

> [if an] NI-born Irish citizen wants to become legally recognised by both countries of their citizenship, they must apply separately to the UK GRA process … [and] apply for a Personal Public Service number in Ireland, and use that as their basis for a gender recognition declaration using the Irish GRA 2015 process.

Worse still, TransgenderNI continued, 'for the past months [in 2018], the sole Gender Identity Service for Northern Ireland adults [has] begun refusing to write reports for the Gender Recognition Panel, which is a core

requirement for recognition under the UK GRA 2004'.[211] Considering all these factors, it asked that the UK introduce statutory self-declaration, and implored 'that these and other reforms to the GRA [be made] available in Northern Ireland'. This would entail the UK bypassing the devolved (but then gridlocked) Northern Ireland Executive.[212]

While the consultations were under way, legislators continued to debate trans issues in general and pursue smaller reforms to keep the national conversation moving. Having left the UK Government Cabinet, Nicky Morgan moved in March 2017 to introduce a bill to close the 'loophole' in the Companies Act 2006 whereby a trans person's change of name can be found via Companies House records should they have registered a company prior to transition.[213] The bill went nowhere.[214] On the whole, the debates in Westminster from 2017 to 2023 tell a story of calm debate and promises of change giving way to a whirlwind of moral panic. Many debates were initiated by the opponents of reform, who leveraged fears about the sanctity of single-sex spaces, the ostensible problem of 'fraudulent' GRC applications, and a purported overextension of adolescent gender care, which by implication was 'making' children trans. For instance, in November 2018 Conservative MP David T. C. Davies introduced a debate on 'Self-identification of Gender' with a warning that puberty blockers were becoming too easy to access for under-16s and a prediction that self-declaration would make it a routine experience for women to encounter a '15-stone bearded man' in women's bathrooms. He also decried what he called a 'lack of debate' on the subject, and a supposed culture of fear that prevented anti-trans groups from speaking up.[215] The overarching point for Davies was that trans rights and women's rights were in conflict, a belief shared by some Labour MPs like Caroline Flint, who claimed in July 2018 that 'there is competition between the rights of the trans community and the rights for which women have fought so hard for many years'.[216] With this notion being put forth so frequently and forcefully, reformers were often pushed onto the defensive, further increasing the hostile tenor of the debates. In the Commons, the SNP's Hannah Bardell launched an impassioned justification for GRA reform as a response to Davies:

> Living in a country and society where someone's orientation or identity does not have legal recognition, and where they do not have equal rights, is corrosive to the soul. At the core is the need to reform the legislation – changing our societal view and structures will follow from changing the law on gender recognition. … It is a stain on our society that many trans people feel so marginalised.[217]

The proliferation of anti-reform narratives caused ministers and pro-reform figures to feel obliged to acknowledge these concerns every time they talked about the subject, which meant the conversation was implicitly framed as a 'conflict of rights' debate. In July 2018, for example, Lord Lucas effusively described GRA reform as 'the end of the fiction of binary gender', but conceded that self-declaration was a 'radical change' with 'predictable problems' in the field of women's rights.[218] That October, Andrea Leadsom said on behalf of the government that a balance would need to be struck between making the GRA 'less intrusive and bureaucratic for transgender people' and 'ensur[ing] that we protect women from abuse'.[219] This zero-sum framing was perhaps the single biggest factor in the failure of GRA reform in the UK.

Liz Truss was appointed Minister for Women and Equalities by the new prime minister, Boris Johnson, in September 2019. On 17 October, when asked for an update on the GRA consultation, which closed the previous October, Truss said she needed more time to 'study it closely'. Harried for details, Truss stated: 'What I am interested in is making the right decisions for the people of Britain so that we have proper protection for transgender people and also ensure that we protect our single-sex spaces.'[220] On 14 June 2020, the *Sunday Times* reported based on government leaks that GRA reform was being scrapped with a view to protecting women's single-sex spaces, with a ban on conversion 'therapy' proposed to 'placate LGBT people'.[221] Truss insisted that 'we will not be rolling back the rights of transgender people',[222] but on 22 September the *Times*'s reporting was confirmed when Truss announced that the GRA would not be reformed: 'It is the Government's view that the balance struck in this legislation is

correct, in that there are proper checks and balances in the system and also support for people who want to change their legal sex.' She promised only to make the GRC application process 'kinder and more straightforward' by moving it online and reducing the £140 application fee to 'a nominal amount'.[223] On 4 May 2021, the fee was reduced to £5.[224] When challenged on her decision on 23 September, Truss told the Commons that she intended to 'maintain the Gender Recognition Act' *and* 'protect single-sex spaces', confirming that this was the reason self-declaration was considered unacceptable.[225] The following day, Labour's Shadow Minister for Women and Equalities, Marsha de Cordova, said her party would 'continue to support updating the GRA to include self-declaration for trans people',[226] but this promise was also de-emphasised and eventually scrapped in June 2023.[227] None of this backtracking reflected the data from the policy consultations. Published in September 2020, the official UK consultation analysis reported that, of 102,818 valid responses, 64.1% 'said there should not be a requirement for a diagnosis of gender dysphoria' in the application process, 80.3% supported 'removing the requirement for a medical report', and 78.6% favoured 'removing the requirement for individuals to provide evidence of having lived in their acquired gender for a period of time'. As for future arrangements, 83.5% believed applicants for a GRC should need to make a statutory declaration on the truthfulness of their request, but a slim majority (52.8%) believed that applicants should no longer have to commit to remaining in their acquired gender 'until death'. Abolition of the spousal consent/veto clause was supported by 84.9%. Opinions were mixed on the potential effects of GRA reform on the Equality Act 2010. Nearly two-thirds (64.7%) 'thought that changes needed to be made to the GRA to accommodate individuals who identified as non-binary'.[228] The report of the WESC consultation, published in December 2021, said that an 'overwhelming number of submitters' felt the changes announced by Liz Truss in September 2020 were insufficient.[229]

The demise of GRA reform in England and Wales was due in part to the UK Government's interpretation of the trans population's size and composition, a point on which it disagreed quite fundamentally with the

narratives put forward by pro-reform factions. First, it did not see the trans population as a politically coherent group, at least not with regard to the issue of gender recognition laws. In his Commons response to the September 2020 reversal, Crispin Blunt MP told Truss that this issue ‘is of first-order importance to between 200,000 and perhaps 500,000 of our fellow citizens and their families’, to which Truss responded that ‘the number one concern of transgender people is improving healthcare services’, not GRA reform.[230] In other words, it was not the numbers themselves that were in question, but rather the notion that the majority of trans people shared the same priorities as leading activists. Second, while it broadly accepted the six-figure estimates on the size of the trans population, the government still viewed this community as small *relative* to other groups, particularly cis women, leaning on the widespread perception that human rights are a zero-sum game in which the interests of larger groups trump those of smaller groups.[231] Within that framing, the demands of a ‘tiny number’ of trans people,[232] representing a mere ‘1 percent’ of the UK population,[233] are less urgent than the demands of people claiming to represent a much larger group, like all women.[234] Finally, prior to the publication of the Census 2021 results, the government lacked reliable datasets. A 2009 ONS report found that ‘existing data collection and research is limited’, and that ‘accurate measures of the trans population at local and national levels’ were lacking.[235] In 2020, NHS England launched the Independent Review of Gender Identity Services for Children and Young People (the Cass Review), in part to uncover the reasons behind the increase in young people seeking gender identity care.[236] For a state, firm demographic datasets serve a desire ‘to rationalize the problems presented to governmental practice’.[237] States do not generally welcome the emergence of complicated new population groups with their own specialised demands,[238] and they are unlikely to be at peace with a large and/or growing trans population until they can satisfy their need to *know* that demographic by forming the ‘computational norms’ upon which modern governance relies.[239] Census 2021 filled in some gaps, but data alone cannot overcome the statistical-rhetorical barriers to trans law reform.

Future campaigns, if they seek to expand the bounds of the GRA, will need to contend with the other two objections as well – that laws cannot be trans-friendly while also being women-friendly, faith-friendly, and disability-friendly; and that gender recognition reform is just the obsession of a few loud malcontents.

One door was now firmly closed; another remained open for a time. Introduced to the Scottish Parliament in March 2022, the Gender Recognition Reform (Scotland) Bill proposed a new recognition pathway for over-16s who are 'ordinarily resident' in Scotland or have a Scottish birth register entry. A GRC was to be obtained through a statutory self-declaration of identity, as long as the applicant has 'lived in the acquired gender throughout the period of three months ending with the day on which the application is made', that they intend to 'live in the acquired gender permanently',[240] and, should the applicant already be in a marriage or civil partnership, that they have obtained the written consent of their partner for the union to continue *or* a declaration that they wish for the union to cease.[241] The bill was later amended to stipulate that applicants aged 16 or 17 must discuss 'the implications for the applicant of obtaining a gender recognition certificate' with someone who '(a) has a role which involves giving guidance, advice or support to young people, or (b) is aged at least 18 and knows the applicant personally'.[242] Such applicants would also be expected to declare that they have 'lived in the acquired gender throughout the period of six [rather than three] months ending with the day on which the application is made'.[243] Another amendment made allowances for some applications to be expedited should the applicant be nearing death.[244] On 22 December 2022, the bill passed with 86 votes for and 39 votes against, with the majority of 'yes' votes coming from the SNP and the majority of 'no' votes coming from the Scottish Conservatives.[245] This alone was a stunning outcome given the socio-political environment into which the bill was introduced, but on 17 January 2023 the UK Government announced that it would activate its final-say powers under Section 35 of the Scotland Act 1998 – the Act that created the Scottish Parliament while retaining 'reserved matters', including equalities law, for the UK Government – to

prevent the bill from attaining Royal Assent.[246] It claimed that there would be too many complications were the UK to have ‘parallel and very different regimes’ for recognition north and south of the Scottish border, especially should this lead to people having ‘a different gender, and legal sex … depending upon where they happen to be within the UK’.[247] It also argued that the Scottish model would increase ‘fraudulent applications’ and necessitate ‘a substantive change to what a “man” or “woman” is for the purposes of the 2010 [Equality] Act’.[248] This latter consequence, it said, could dilute the protections for women in the Equality Act if a larger ‘cohort’ could obtain GRCs, and lead to the ‘self-exclusion of [cis] women who, for religious, philosophical belief or other reasons, may only feel able to attend an association if they understand them to be segregated by biological sex’.[249] The Scottish Government took the matter to the courts, but, after a ruling by the Scottish Court of Session declaring the UK Government’s actions legally sound, it abandoned its effort in December 2023.[250]

The first attempt to introduce gender self-declaration was thus irretrievably dead. No immediate replacement for these initiatives emerged. As the well-connected former Stonewall leader Baroness Ruth Hunt put it in February 2024, there was simply ‘no appetite whatsoever for reform of the Gender Recognition Act’ in Westminster, the mobilisation against it being like nothing she had seen in her career.[251] Should the self-declaration model ever be revived – no foregone conclusion – the necessary conditions seem to be: (1) a change of leadership in either of the main parties in Westminster and an election victory for a party amenable to GRA reform; (2) Scottish independence, or else a willingness in London to allow Scotland to shape its own equality laws; (3) Irish reunification, or else the same willingness; or (4) intervention from an outside body such as the ECtHR. The timeframes for any of these eventualities appears to be a single decade at an optimistic minimum, but more realistically two or three, during which time the UK could fall even further behind comparable states. Some jurisdictions may yet abolish legal gender before the UK gets anywhere close to self-declaration.

Like 2004, the year 2023 was a turning point in UK trans history, albeit for very different reasons. For some, 2004 spelled ‘Mission Accomplished’, or at the very least ‘Stage 1 Complete’, whereas 2023 could justifiably be read as an emphatic ‘Mission Failed’. It is not yet possible to predict the long-term trajectory of trans activism in its aftermath. Do we try again, whoever ‘we’ are, or do we choose to play a different game? With politics shifting precipitously to the right in many respects, will we even have the opportunity to pursue positive reforms, or will we be too busy fighting to maintain the rights we currently have? Either way, the slope ahead is steep, and the obstacles are both tall and mounting.

4

Fear, fury, and the future

By the closing years of the 2010s, the intermittent humming of anti-trans messaging in media and frontline politics that left its mark on the soundscape of the 1990s and 2000s had become a swelling cacophony, often completely drowning out the voices of trans people and burying the hope of GRA reform beneath layer upon layer of loud moral outrage. The publicity victory was so complete that the UK became infamous the world over as a hotbed of anti-trans ideologies. Most of all, it is known as the global epicentre for 'Trans-Exclusionary Radical Feminists' (TERFs), a group defined by the feminist blogger who coined the acronym as 'one cohort of feminists who self-identify as radical and are unwilling to recognise trans women as sisters, unlike those of us who do'.[1] Judith Butler, the feminist theorist famed for formulating an understanding of gender as a 'performative' system of self-perpetuating social categorisation,[2] wrote in their book *Who's Afraid of Gender?* (2024) that 'TERF' discourses are at their most 'inflamed' and 'fractious' in the UK,[3] with UK-based figures like J. K. Rowling, Kathleen Stock, Helen Joyce, and Kellie-Jay Keen-Minshull being opinion leaders for anti-trans politics in the English-speaking world.[4] In 2022, LBC radio host Natasha Devon noted that the UK is regarded as 'the transphobia capital of the world',[5] while major US news outlets like the *New York Times* and *Vice* carried pieces reporting that 'Transphobia is everywhere in Britain',[6] asking 'How British feminism became anti-trans',[7] and taking their readers 'Inside the Great British TERF War'.[8] The Council of Europe Committee on Equality and Non-Discrimination stated in a 2021 report that anti-trans campaigns had been gathering 'momentum, power and

financial support' in the UK, contributing to 'vitriolic media campaigns' in which 'trans women especially are vilified'.[9] The left-wing UK outlet *Novara Media* and the right-wing US outlet *Compact Magazine* both published articles titled 'Welcome to TERF Island' in 2023,[10] while the German outlet *Left Berlin* ran with 'Notes from "TERF Island"'.[11]

Over the last decade or so, many scholars have set out to explain the explosion of the 'TERF Wars' onto mainstream British politics,[12] seeking to identify the *what*, *why*, and *from whence* of these anti-trans campaigns, particularly those claiming to represent a 'radical feminist' ethic.[13] We will encounter many of their theories as this chapter unfolds, but it must be observed at the outset that in spite of all the time and ink expended on the task, the conversation is still developing, and even the most basic terminology remains contentious. In particular, the acronym 'TERF' has outgrown its original purpose and become a colloquial shorthand for nearly all anti-trans beliefs. It is both too imprecise, denoting an ideological amalgam with no firm boundaries or consistent characteristics, and too exact, erroneously implying that trans-exclusionary beliefs are the preserve of radical feminists, or that radical feminism as a whole is predisposed to these views.[14] For their part, many of those who might once have been called 'TERFs' reject this title as a slur, and have adopted the label 'gender-critical' (often shortened to 'GC') in reference to their conviction that 'gender' as a social identifier is overemphasised to the detriment of 'sex' as a biological classification.[15]

Radical feminism began in the 1960s among mostly white, college-educated,middle-class women in the United States in the midst of culture-wide changes like the sexual revolution and the rising availability of reproductive and abortive medicines.[16] These social forces turbo-charged phenomena that radical feminists saw as harmful – for example, many early radical feminists believed that pornography was a weapon of male violence, and opposed its proliferation.[17] However, the same forces created new opportunities for personal liberation. In her book *Feminist Politics and Human Nature* (1983), English-American radical feminist philosopher Alison M. Jaggar described radical feminism as 'unmistakably a 20th-

century phenomenon' because it was during that century when, seemingly for the first time, the 'drudgery' historically placed on women appeared surmountable, and when 'the possibility of minimizing and perhaps even abolishing the burden of women's traditional responsibility for childbearing and childrearing [came] to be recognized'. As Jaggar expressed it, the signature insight of the radical feminist is 'that distinctions of gender, based on sex, structure virtually every aspect of our lives', being an 'all-pervasive' feature of 'an elaborate system of male domination'. Hence, she wrote: 'The theoretical task of radical feminism is to understand that system; its political task is to end it.'[18] In going about that assignment, radical feminists in the 1960s and 1970s rejected what they perceived to be a strategic timidity among mid-century women's campaigners. As Wendy L. Lee explains:

> Perhaps what most obviously differentiates mainstream liberal feminism from its radicalized sister is that while the former continues to hope that the master's tools (e.g., capitalism, extractive technologies) can be deployed to dismantle and then rebuild a better version of the master's house (e.g., economy, environment), the latter has largely quit this project of rebuilding and jettisoned its tools in favor of building not merely a house but an entire conceptual 'civilization' whose collective mission it is to embody the experiences, values, and desires of women.[19]

Lee's point hinges on a phrase coined by Black American feminist philosopher-activist Audre Lorde in 1979 – 'the master's tools will never dismantle the master's house' – which has cemented itself as one of the core tenets of revolutionary feminism. Lorde stressed that women who are 'forged in the crucibles of difference', like Black women, poor women, lesbians, and older women, are taught by experience that if they try to gain freedom using the levers offered to them – that is, by using the master's tools – the best they can hope for is 'temporarily to beat him [the master] at his own game'. The master does not provide the tools necessary to dismantle his house; the oppressed must work together to build their own

tools and with them erect their own future.[20] Aversion to the use of the 'master's tools' extended for many radical feminists to an aversion to close association with men in general. Jaggar wrote that feminism 'has always required a degree of separatism', but few emphasised separation more than these women, who believed that all forms of traditional association with men, including sex and marriage, were instruments of oppression:

> In order to create [a new society], radical feminists need to prepare themselves. They need a womanspace, a space free from male intrusion. In this space, women can nurture each other and themselves. They can begin to practice their own values and become clearer about them by doing so. They can develop the skills and the strengths forbidden to women under patriarchy. They can begin to lay the foundations on which the womanculture will be built.[21]

In some cases, separatism meant encouraging women to leave their husbands and even 'become lesbians'.[22] In other cases, it meant creating a new network of women-only organisations, including health clinics, businesses, support lines, and even spiritual traditions. The presence of men in any of these institutions 'would bring the inevitable intrusion of male values; men's absence is necessary for women to heal their male-inflicted wounds'.[23] It isn't difficult to cast proclamations like this in an unfavourable light by removing them from their political context. Victoria Robinson observes that radical feminism's involvement with strident lesbian separatism is what makes it all too easy to 'caricature' as an 'essentialist' belief system which regards 'femininity and masculinity as innate traits'.[24] It is also not hard to intuit a line from this oppositional view of the world to a practice of trans exclusion, especially when it is exacerbated by fears of male 'intrusion', though this intuitive reasoning only get us so far. Marxist-feminist writer Rosa Lee points out that radical feminism's reliance on *woman* as a 'coherent and stable subject', conceived as being mutually exclusive with *man*, makes it prone to hostility towards trans people if it comes to perceive them as a threat to that coherence, but

Lee notes that ‘mainstream contemporary liberal feminism’ shares this characteristic, so we cannot necessarily see this as a smoking gun.[25] The best solution to the question of how radical feminism developed a ‘transphobia problem’ may in fact be the simplest: that it is *not* necessarily more susceptible to anti-trans conspiracism than liberal feminism, Marxist feminism, or any other strand of feminist thought, but that its fraught reputation owes more to the fact that its heyday, the 1970s, overlapped with the mainstreaming of a trans autobiographical and political narrative that derived authority from its acceptance by parts of the male-dominated medical establishment – an institution that radical feminists already saw as the enemy. Trans autobiographers seeking to legitimise their existence and carve out a space in public life repeatedly pointed out that their ‘condition’ was recognised by doctors. This rhetoric collided with a radical feminist movement that was already primed to be on the lookout for signs of male subterfuge. The impact wasn’t pretty. Of course, this conflict was not *wholly* circumstantial, but circumstance played a greater role than is often permitted.

Looking at the problem from another angle, the presumption that antitrans beliefs are simply the logical conclusion of radical feminist principles is entirely untenable in light of a new wave of historical research demonstrating that trans people were active in radical feminist spaces from the very beginning, and that attitudes of trans *inclusivity* were fairly widespread in 1970s radical feminist circles.[26] Nor do radical feminists today necessarily skew in an exclusionary direction – despite the way things might appear on the surface. Qualitative participatory studies by Emma Sarter, Peter Hegarty, and Annalisa Casini find a strong correlation between trans-inclusive views and self-identification as a radical feminist,[27] and D.-M. Withers argues on a conceptual level that trans inclusivity is fully compatible with radical feminist thought because both cisgender radical feminist writers and trans writers endorse, in their own ways, ‘experimentation’ with ‘alternative forms of existence’.[28] Another relevant point is that distaste for trans people can be motivated and justified in many different ways and does not rely on any distinctively radical feminist

catalysts to survive – just look at the so-called Christian Right. That many of the foundational texts in anti-trans politics were written by radical feminists certainly gave it a characteristically antagonistic tone and informed its concerns (e.g., the idea that men are invading 'real' women's spaces, aided by the male surgeon's scalpel), but there is no reason to believe that an equally vociferous reaction from other sources could not have occurred had the chronology been different. The real question, to summarise, is not 'Why are radical feminists so transphobic?', but 'How did radical feminists come to be *known as* transphobic?' That's one of the questions unpacked in this chapter.

Anti-trans ideologies are largely motivated by a reactionary desire for the continued social and legal non-recognition of trans people, which in turn is rooted in a belief that transness undermines the political coherence of binary gender, particularly womanhood. The question of *what* exactly is being acknowledged when society and government bodies extend forms of recognition to trans identities (e.g., a disorder, a brain state, or a subjective notion) has at various stages taken pole position in anti-trans discourses, which have morphed in parallel with the perceived nature and scale of the 'threat' that they believe trans people pose to their own values. When trans recognition meant only the informal acceptance of a small number of aberrants on the basis of a rare medical disorder, as it did for most of the twentieth century, anti-trans mobilisation was sporadic. Even when it meant a formal change of status for a few thousand transsexuals, as it did in the 1990s and early 2000s, anti-trans agitation remained a niche hobby, with the only organised opposition to the GRA outside of Parliament coming from lobbyists in the Evangelical Alliance, a group whom Press for Change activists found to be 'staggeringly inept' and totally incapable of communicating their objections to politicians or the secular media.[29] It was only when trans organisations moved away from the disorder model of transness, claimed to represent hundreds of thousands of people, and called for the legal recognition of gender based on a more diffuse sense of identity, that the 'TERF Wars' found broad purchase.

Anti-trans ideas also underwent an evolution that helped make them palatable in mainstream politics. In the 1970s and 1980s, the dominant anti-trans arguments were absolutist in nature, completely rejecting the legitimacy of trans identities on philosophical or sometimes theological grounds. I will call this the ‘axiomatic non-recognition’ position, as those who take this view assert that transness is incompatible with their axioms – their rules of engagement. In the 2000s and 2010s, however, a new generation of antitrans activists adopted softer rhetoric, claiming to accept *some* trans people – usually those with a medical diagnosis – while rejecting cultural and legal shifts in the wider interpretation of sexual categories. I will call this position ‘qualified (non-)recognition’, as it ostensibly takes a ‘moderate’ stance while reserving the right to invalidate trans people based on poorly-defined criteria. By the start of the 2020s, this pretence of moderation had in any case mostly been dropped.

AXIOMATIC NON-RECOGNITION

Finding the origins of the anti-trans movement is a chicken-and-egg problem. It could be argued very cogently that there was no such thing as ‘anti-trans’ ideology before the ‘trans’ part was formulated and given its modern nomenclature around the 1950s, but it is equally possible to point out that the denigration of gender expressions beyond the man-woman binary goes back a lot longer than that, manifesting, for instance, in the violent and often murderous inclinations of early-modern Western colonists towards indigenous groups who did not conform to their idea of biblical or scientific ‘truth’. In the sixteenth through to the eighteenth centuries, Spanish colonists in North America engaged in a campaign of extermination against groups of indigenous gender diverse people they called *joyas*, whom they perceived to be men wearing women’s clothing, sometimes having their dogs kill and consume them. Historian Deborah A. Miranda calls this a ‘gendercide’.[30] Yet the victims of this crime were not ‘trans’ in the sense of that word today – their expression was not constructed as an exception to or crossing of modern calcified gender norms

– and the perpetrators had no concept of a cross-cultural trans identity system rooted in the scientific and sociological patterns of the nineteenth and twentieth centuries. It may be true that opposition to variant forms of personhood have always existed, but the anti-trans movement is more specifically and more fruitfully conceived as a counter to the modern trans community.

The first figures to reject modern concepts of transness outright and to make this rejection a part of their public or professional personas were arguably the doctors who contested the propriety and effectiveness of gender-affirming care, like hormone replacement therapy and reconstructive surgery, in medical journals and symposia in the 1950s.[31] However, these individuals did not make their reservations legible to non-specialists, and in most cases they did not even try. It was left to others, often people with little or no personal connection to trans life save a perception that the existence of trans people threatened their beliefs and values, to perform that translocation. One of the earliest such individuals was Australian-British radical feminist activist Germaine Greer, a now-infamous critic of trans identities and politics who first wrote about the subject in her second-wave feminist manifesto, *The Female Eunuch* (1970). Although Greer's staunch opinions had not yet coagulated when she was writing the book, the seeds of those opinions are very much evident. She said of the *Corbett* v. *Corbett* case that 'Disgraced, unsexed April Ashley is our sister and our symbol', but this gesture was not intended as a genuine rhetorical embrace of trans women. Greer often referred to Ashley as 'he', and described her gender-affirming surgeries as a 'castration'. Her point was this: 'As long as the feminine stereotype remains the definition of the female sex, April Ashley is a woman, regardless of the legal decision ensuing from her divorce [*sic*].' In a feminist future, Greer implied, this would no longer be the case, so while she acknowledged that Ashley was 'as much a casualty of the polarity of the sexes as we all are', the suggestion was that in a sane world she *shouldn't* have a claim to sisterhood.[32] Aside from an unfavourable review of Jan Morris's autobiography *Conundrum* (1974),[33] Greer did not write or say much more about the issue until 1989, when the *Independent Magazine*

published her piece ‘Why sex change is a lie’. Her opinions had by this time solidified, as seen in this passage about an encounter with a trans woman who was a fan of *The Female Eunuch*:

> ‘Thank you,’ it breathed hoarsely, ‘Thank you so much for all you have done for us girls!’ I smirked and nodded and stepped backward, trying to extricate my hand from the enormous, knuckly, hairy, be-ringed paw that clutched it. The face staring into mine was thickly coated with pancake make-up through which the stubble was already burgeoning, in futile competition with a Dynel wig of immense luxuriance and two pairs of false eyelashes. Against the bony ribs that could be counted through its flimsy scarf dress swung a polished steel women’s liberation emblem. I should have said, ‘You’re a man. *The Female Eunuch* has done less than nothing for you. Piss off.’[34]

Greer’s description of this individual conveys a non-recognition of her womanhood based on hyperbolic physical observations, and her earlier pretence – that trans women are effectively ‘sisters’ as long as patriarchal gender structures survive – is abandoned. She proclaimed that there are certain immutable ‘genuine differences’ between males and females which have been ‘obscured by a series of phoney differences’ (e.g., the supposed meekness of women and the active practicality of men).[35] Her answer to the ‘polarity of the sexes’ was not to abolish it, but to clear away the ‘phoney’ distinctions and refocus attention on the ‘genuine’ ones, including a series of life experiences that she saw as uniquely female, such as the first period, ‘female’ puberty, and menopause, as well as the societal expectations and impositions that accompany these moments in a patriarchal society. No trans woman, according to Greer, can claim to know what any of these experiences are like, though she does not explicitly account for the many cis women who, for a variety of medical and biological reasons, also do not experience these things, nor those who experience the social fallout very differently due to their other characteristics, like their racial and class background. To ‘recognise’ a person’s gender identity is, in this model, a

recognition not of current identity but of *past* reality, beginning at birth and filtered through a strict experiential-physiological test, and by this standard Greer excludes all trans women from sisterhood. The logical conclusion regarding legal recognition of trans people would thus be that it facilitates a lie.

Greer attempted to put these ideas into practice in the late 1990s when she tried unsuccessfully to have a trans woman academic barred from Newnham, an all-women college at Cambridge, UK where Greer taught.[36] Her rhetorical campaign stepped up a gear with the publication of a follow-up to *The Female Eunuch* titled *The Whole Woman* in 1999. In the chapter 'Pantomime dames', Greer leaned further into conspiratorial lines of reasoning, claiming: 'Governments that consist of very few women have hurried to recognize as women men who believe that they are women and have had themselves castrated to prove it, because they see women not as another sex but as a non-sex.'[37] Stripped of their agency and intentionality, trans people are represented as a weapon of the patriarchy, effectively non-sentient. As Greer argues: 'Sex-change surgery is profoundly conservative in that it reinforces sharply contrasting gender roles by shaping individuals to fit them.'[38] Seen through this lens, trans identities are fused into a postulated postmodernist patriarchal plot to make 'real' women obsolete:

> Post-modernists are proud and pleased that gender now justifies fewer suppositions about an individual than ever before, but for women still wrestling with the same physical realities this new silence about their visceral experiences is the same old rapist's hand clamped across their mouths. Real women are being phased out; the first step, persuading them to deny their own existence, is almost complete.[39]

For Greer, then, granting legal or social recognition to trans women represents not the extension of a limited form of acceptance to an embattled minority, but the existential erasure of 'real' women via an invasion of men-claiming-to-be-women. Allegedly lacking support from governments, the onus is thus on 'real' women to enforce the conceptual border between

reality and falsity in spaces such as bathrooms and women-led institutions. To borrow a concept from migration studies, she advocates a type of 'everyday bordering', a set of civic policies that delegate to individual citizens the responsibility to detect and report 'illegal' migrants, or in this case 'false' women. These policies are 'aimed at making people feel safe by keeping those who do not belong out', *belonging* being defined less by specific criteria than by a populist feeling that 'I was here before you'. It is an 'autochthonic politics' that privileges firstness over need, bureaucracy over community, and 'us' over 'them'.[40] Anti-trans politics shares much of the DNA that makes anti-migrant rhetoric so narratively potent – one of many reasons it fits so effortlessly with rightwing attacks on migrants and other disempowered groups. As trans historian Cristan Williams says: 'The message TERF opinion leaders send is clear: trans women represent the wolf in sheep's clothing; an enemy that could be anywhere, especially in authenticated women's spaces.'[41] This enemy – the 'trans woman interloper'[42] – has breached the inner sanctum and needs to be expelled. One is either part of the resistance or part of the problem.

US radical feminist Janice G. Raymond, an acolyte of Catholic-cum-secular feminist theologian Mary Daly,[43] is perhaps the most important proponent of this view. Raymond's signature anti-trans text, *The Transsexual Empire: The Making of the She-Male* (1979), has been described by trans scholars Susan Stryker and Stephen Whittle as having done 'more to justify and perpetuate [transphobia] than perhaps any other book ever written'. They compare it in this regard to the *Protocols of the Elders of Zion*, a pseudepigraphal hoax text used to stoke fears of a global Jewish conspiracy for domination.[44] Putting a different spin on Raymond's role in the spread of anti-trans ideas, Julie Bindel, another anti-trans feminist, lionises her as 'the original Terf'.[45] However, the extent of her contemporary influence is disputed. Hazel, a trans radical feminist active in the 1970s and 1980s, wrote that Raymond represented the 'general consensus of opinion among feminists' at the time.[46] Whittle recalls that her book 'had far-reaching ideological effects' that made feminist spaces more hostile,[47] while US trans feminist Sandy Stone wrote in 1991 that it was

‘still the definitive statement on transsexualism by a genetic female academic’.[48] Conversely, British trans journalist Jane Fae recalls that Raymond’s writing ‘attracted little attention’ and was ultimately ‘little more than a footnote in speeches given in the UK by some feminist leaders’.[49] Either way, the book has been exhaustively analysed and critiqued,[50] its publication in 1979 marking a crucial juncture in most retellings of trans history.[51] It was not the first work of its kind, but it *was* the first anti-trans polemic to attract mainstream academic, political, and journalistic attention, aided by the sheer audacity of its claims.

Raymond presents the increasing availability of gender-affirming medical care in the late twentieth century as a product of nefarious conspiratorial intentions; of men working to replace ‘real’ women with false ones. This is the ‘Empire’ that Raymond imagines: the colonisation of the feminine by the masculine through the power of new medical technologies. The existence of trans radical feminists who critiqued the way gendered stereotypes were promoted and enforced in early gender identity clinics as vociferously as Raymond, and who theoretically shared in her intellectual heritage – people like Sandy Stone, whose employment as a sound engineer by the all-women Olivia Records music collective so incensed Raymond that she sent a draft copy of *Transsexual Empire* to the group in 1976[52] – did not matter, and indeed Raymond saw them as further proof of the depth of the conspiracy.[53] In a chapter on trans women in lesbian-feminism, she said:

> The transsexually constructed lesbian-feminist, having castrated himself, turns his whole body and behavior into a phallus that can rape in many ways, all the time. In this sense, he performs *total* rape, while also functioning totally against women’s will to lesbian-feminism.[54]

Raymond contended that the only acceptable response to the threat was ‘morally mandating it [i.e., trans identity] out of existence’.[55] These infamous passages flow straight from the emotive heart of *Empire*, but they also speak to the book’s broader epistemological and philosophical

concerns. As I explored in my book *Gender Heretics*, Raymond claimed that the narratives of trans embodiment most prevalent at the time, namely those premised on assertions that trans people were 'born in the wrong body',[56] recapitulate a 'dualist' or 'Gnostic' view of the material realm in which the body is valueless; *worse* than valueless, as it belongs to the evil material realm to which the soul is imprisoned. The physical is subordinated to the whims of the mind/soul and, by extension, to the misogynistic preconceptions of the society in which the mind operates: a society that thinks it can master femininity by artificially reconstituting it. Trans people, then, represent an existential threat to 'real' women and indeed the very concept of empirical truth.[57] Her concern about a resurgent philosophy of so-called body/mind dualism was shared in the 1980s by other radical feminist writers like Raymond's PhD supervisor Mary Daly (who listed trans identity as one of the 'Biggest Lies' propagated by the patriarchy),[58] evangelical theologians like Oliver O'Donovan,[59] and conservative political thinkers like Roger Scruton.[60] Of course, most trans people would likely be dumbfounded by the accusation that they are reviving an ancient heresy, but this argument is common in the 'high-brow' corners of anti-trans literature. To deny recognition to an ideology such as this is framed by all of these writers as an axiomatic good. No compromise can be made until the very concept of transness is consigned to memory.

QUALIFIED (NON-)RECOGNITION

Greer and Raymond structured their arguments in opposition to the 'medicalist' model of trans life, which in simple terms is the claim that 'transsexualism' is a recognised medical condition and *therefore* deserves respect. Their exposure to the subject came primarily through mainstream medical literature and contemporary media reporting in which this way of thinking about transness was almost ubiquitous, and the assumption they came to seems to have been that if they could discredit the medical theories, then this whole trans phenomenon would come crashing down. Yet the medicalist model was never universally accepted by trans people, and by

the late 1980s it was coming under sustained attack by trans feminist writers. In her 1987 essay 'The e*mpire* strikes back: a posttranssexual manifesto', a direct response to Raymond, Sandy Stone described the conventional trans life narratives in the autobiographies of figures like Jan Morris as 'suspicious' because they reflected the heavily curated and standardised version of respectable trans existence that gender identity clinicians required of their patients. Stone particularly called for trans people to 'deconstruct the necessity for passing' in society – in other words, to completely forgo the conventional traits that society expects men and women to have – so as to rearticulate their lives 'as a political action begun by reappropriating difference and reclaiming the power of the refigured and reinscribed body'.[61] In the 1990s this argument became part of the emerging 'queer theory' (a form of postmodernism/poststructuralism that rejects the claim that what we think of as 'normal' is any more grounded in the laws of nature than that which is 'not normal'). Writers like Judith Butler insisted that *all* identities, including 'man' and 'woman' in the conventional sense, are performative and subjective, and that identities do not need a medical cause or explanation to be valid.[62] This threw a spanner into Raymond's original thesis, as her claims of a trans medico-patriarchal conspiracy became more difficult to maintain in their purest form when trans theorists were growing ever more disenchanted with the very regimes with which they were supposed to be conspiring. Hard-line anti-trans figures responded by reaffirming their nonrecognition of all trans people using updated frames of reference, as Raymond herself did in her foreword to the second edition of *The Transsexual Empire* (1994), where she focused on the wrongs of 'postmodernism' and an alleged assault on the concept of objective truth by academic and political elites.[63] Foregrounding this new adversary allowed her to maintain the conspiratorial patina of *Empire* while also making accommodations for the fact that trans politics was clearly changing.

However popular Greer and Raymond remained among some die-hards in the 1990s and beyond, their rhetorical abrasiveness was less attractive to a younger generation of anti-trans feminists who, due to the uptake of trans law reform projects in the political mainstream, had to make their case in a

way that could be understood and accepted by those with no association with radical feminism. The new wave parted with Greer and Raymond on at least one point of substance: For them, the postmodern turn in trans theory in the 1990s was not just the next phase in an ongoing effort to replace 'real' women that began with scalpels and hormones earlier in the twentieth century – in fact, they generally argued that medical supervision and adherence to the cultural norms of gender for the purpose of stealth was the preferable path for trans people to take. No, the attempt to reconsider the nature of 'truth' by queer theorists seemed to them to be something new, marking the point at which trans identities, or what anti-trans groups later dubbed 'gender ideology',[64] departed from the pale of acceptability and became obscene. In other words, the 1990s was their Rubicon, the point of no return past which it behoved 'real' women to actively seek the ejection of the trans interlopers from their spaces. This new generation of ostensible 'moderates', many of whom were more closely aligned with liberalism or conservativism than radical feminism, claimed to accept *some* trans people – the ones who put themselves under medical supervision and faded into society as 'normal' men and women – while decrying only the 'militant' trans activists who wished to detach gender registration from medical criteria. As I will argue, this affectation of nuance makes little real difference, as the rules for being sorted by the 'moderates' into the in-group of acceptable trans people are functionally arbitrary.

Helen Joyce, a UK-based Irish journalist and Director of Advocacy at the anti-trans group Sex Matters, is among the most conspicuous and representative figures in the new wave. She argues in her popular book *Trans: When Ideology Meets Reality* (2021) that while trans people in the past were tolerable due to their limited numbers and containment within medical paradigms, trans activists today pose a more serious threat to society because they simply *want too much*:

> When the only people who identified out of their sex were the tiny number of post-operative transsexuals, they had little impact on others. But the gender identity that is posited by today's ideology is entirely

> subjective, and the group of trans people is far larger. It includes part-time cross-dressers and even people who present as a typical member of their sex, but identify to the contrary – or declare a novel identity, such as non-binary or gender-fluid. What is being demanded is no longer flexibility, but a redefinition of what it means for anyone to be a man or woman – a total rewrite of societal rules.[65]

The last sentence is particularly indicative of the effects of the change of the guard in anti-trans feminist politics, as 'a total rewrite of societal rules' is precisely what radical feminism was always intended to achieve, and the defence of current norms, most of all the defence of current *gender* norms, would have been proscribed by the original radical feminists as unacceptable collaboration. Motivated more by conservatism than by a transformational vision that conflicted with trans activist visions, Joyce suggests that there was no real problem when trans people were seen as marginal 'exceptions, to be accommodated in society with varying degrees of competence and compassion'.[66] It is also telling that, whatever her personal views, Joyce feels it necessary to gesture her concern that the trans 'lobby' actually 'serves [trans people's] interests very poorly' because its allegedly unmoderated radicalism encourages 'a backlash that will harm ordinary trans people' – an issue that Greer and Raymond would never have bothered to discuss, since they were more comfortable stating outright that they wished for there to be *no trans people at all*.[67] That said, Joyce's affectation of concern for trans people is muted by her description of trans identity as a 'social contagion',[68] a notion with clear reactionary connotations, and by her reliance on a vocabulary of conspiracism:

> This is … a story of policy and institutional capture; of charitable foundations controlled by billionaires joining forces with activist groups to pump money into lobbying behind the scenes for legal change. They have won over big political parties, notably America's Democrats, and big businesses, including tech giants. They are backed, too, by academics … and by the pharmaceutical and health-care industries,

> which have woken up to the fortunes to be made from ‘gender-affirmative’ medicine.[69]

Joyce has since stated that the priority for anti-trans activists should be ‘reducing or keeping down the number of people who transition [because] every one of those people is … damaged [and poses] a huge problem to a sane world’.[70] Whereas Raymond focused on medical practitioners in the mid-to-late twentieth century, Joyce suggests that their work only foreshadowed more worrisome developments down the line. Ultimately, it was the *departure* of trans theory from medical paradigms that transformed transness into a ‘social contagion’, the implication here being that Joyce need never have raised the alarm had trans people remained locked within a medicalist framework: a *post-facto* justification of her own late arrival to the discussion.

Harry Potter author J. K. Rowling is another high-profile anti-trans feminist in the UK whose views are representative of the broader movement. She uses the same ‘new threat’ formula as a narrative scaffold both for her own involvement in the issue and for her political prescriptions. In a June 2020 article on her personal blog titled ‘J.K. Rowling writes about her reasons for speaking out on sex and gender issues’, she explains that the occasion for her intervention was the developing legal situation involving Maya Forstater, a tax expert whose annual work contract at the Centre for Global Development was not renewed after she made a series of Twitter posts insulting and delegitimising trans women in 2018. As Rowling narrates it, Forstater ‘took her case to an employment tribunal, asking the judge to rule on whether a philosophical belief that sex is determined by biology is protected in law. [The court] ruled that it wasn’t.’[71] The case was ultimately resolved in Forstater’s favour on appeal in 2022, but at the time it was not clear that this would be the result.[72] Rowling also claims that her hand was forced by a wave of ‘accusations and threats from trans activists’ that she received after she liked several anti-trans posts on Twitter. She cedes in her article that ‘the majority of trans-identified people … pose zero threat to others’, but, like Joyce, asserts that ‘Huge numbers of women are

justifiably terrified by … trans *activists*'.[73] To simply *be* trans is not presented by Rowling as a problem, a substantial rhetorical softening compared to Raymond, but to be a trans *activist* implies in her mind an active willingness to undermine the rights of cis women. It is the rise of this latter group that makes Rowling's intervention appear timely, at least in her own perception. Another 'new threat' is found in her interpretation of demographic change:

> Most people probably aren't aware – I certainly wasn't, until I started researching this issue properly – that ten years ago, the majority of people wanting to transition to the opposite sex were male [i.e., registered male at birth]. That ratio has now reversed. The UK has experienced a 4400% increase in girls being referred for transitioning treatment. Autistic girls are hugely overrepresented in their numbers.[74]

The gender ratio of those seeking medical intervention has fluctuated over the years. In the 1950s, when Roberta Cowell came out as trans, the common belief was that those registered as 'girls' at birth were much more likely to seek reconstructive surgery than those registered as 'boys'. After consulting with medical experts, journalists described Cowell's case as 'unique' because 'a change of sex from male to female' was at that time 'much rarer than the reverse',[75] yet by the 1970s the majority of the patients seen at the Gender Identity Unit in London were registered 'boys'.[76] Tracing this fluctuation and its causes is beyond the scope of this book, but it should be remembered that the reversal of the ratio in the early twenty-first century only appears unusual if one were to selectively choose the start and end date of the statistics in order to tell a particular story. And even if one accepts her limited chronology, Rowling did not fully explain why such a reversal should be seen as a bad thing. She placed the blame on a phenomenon called Rapid Onset of Gender Dysphoria (ROGD), an unsubstantiated hypothetical subcategory of gender dysphoria. Social scientist Lisa Littman coined the term in a 2018 study that relied entirely on survey data from parents on three antitrans websites concerning their

perceptions of the causation and timing of their children's experience of gender dysphoria (not so unlike the paper that kicked off the modern anti-vaccine movement in the 1990s, although, unlike that paper, Littman at least *seems* to have accurately reported the views of the parents, having sought them out).[77] Littman claimed that online trans 'echo chambers' were largely to blame for an avalanche of children and young people claiming to be gender-dysphoric, especially among those assigned female at birth.[78] The study has been roundly discredited in the sociological and clinical literature, but it is a potent rhetorical device nonetheless.[79]

There is nothing really unique in any of this. Like any political movement or ideology, feminism is susceptible to 'discourses of crisis', which, as described by feminist scholar Katy Reade, tend to rely on novel threats from the group's perceived 'enemies' to justify a rising panic about the health and future of the movement.[80] In the case of Joyce and Rowling, these portents of doom serve to rationalise the *timing* of their own interventions, i.e., why they are speaking up *now* and not in decades prior. Their imagined inflection point, the location of the Rubicon, must therefore be placed significantly later than the one identified by the pioneers like Raymond. Their version of the story is that older (medicalised) trans identities were respectable, or at least benign, but that *everything went wrong* in the 1990s. Canadians Linda Blade, a former athlete, and Barbara Kay, a journalist, offer a particularly explicit version of this narrative in their 2020 book about trans inclusion in the Olympics. Following a brief idealised history of the Games, they write:

> But then something strange happened. *Beginning in 1996*, just as the Olympic Games had established themselves on a stable plateau of equality of opportunity among the nations and between the biological sexes, a *new ideology* that focused on 'gender identity', as opposed to biological sex, began to spread through the Olympics' governing body. Dogmas arising from these theories made their way into rules and regulations that defy both biology and common sense.[81]

The notion that ‘something strange happened’ in the 1990s appears in nearly every anti-trans feminist polemic published in the present century. In *Material Girls: Why Reality Matters for Feminism* (2021), British feminist scholar Kathleen Stock writes:

> In the 1990s, the academic discipline of queer theory was forged: a branch of critical theory applied to sex, gender and sexuality, with [Judith Butler’s] *Gender Trouble* a foundational text …. In many quarters, feminism became thought of as a political project aimed at critiquing ‘exclusionary’ gender practices generally, rather than at the liberation of the female sex in particular – or even at all. After all, if the female sex is merely a social construct propping up hierarchical power relations, then to make it a focus of political activity is to give that social construct apparent validity and so further to entrench it. Better then to try, positively, to ‘queer’ sex subversively, via transgressive, unexpected performances of masculinity and femininity such as drag and trans; or, if you can’t do *that*, then ignore it altogether.[82]

There were preceding steps leading up to this moment, but it is in the 1990s that Stock locates the metastasisation of the threat, because, in her view, ‘Getting rid of the concept WOMAN would mean we couldn’t describe, explain, predict or manage’ the disadvantages that ‘real’ women face.[83] Similarly, Sheila Jeffreys complains that the political self-awareness of the lesbian-feminist movement has been damaged by the relativistic de-essentialisation of ‘sex’ and its subordination to an inner sense of ‘gender’ since the 1990s.[84] Though the language is different, the same philosophical axioms that undergirded the first wave of anti-trans feminist thought are endemic here – the base ‘problem’ being that transness saps the cultural infrastructure by which the sexed body is translated into the gendered self, and more specifically, by which the female newborn becomes the radicalised feminist woman. To recognise the identity of anyone who subscribes to such a theory is to recognise that there is *truth* to it, and this,

the argument goes, is a step too far. Better to return to a strict anatomical 'realism'.

'A MOCKERY OF THE STRUGGLE'

There are many other dimensions to the anti-trans movement that could be discussed in purely theoretical terms, but we have covered enough ground to understand that this is a movement founded on the non-recognition of trans people as a legitimate group at a political as well as cultural level, and so it is expedient to turn our attentions now to the practical application of this ideal – that is, non-recognition as an item of policy. As noted in Chapter 1, campaigns for the state to recognise marginalised groups are often targeted for disruption by factions with a vested interest in scuppering the process. In Melissa Williams's words, such campaigns can be 'counterbalanced by the conflicting pressures exerted by other groups'.[85] This is of course a simplification of a complex phenomenon, but an oppositional pattern tends to emerge. Group A, usually a group subject to long-term marginalisation, demands recognition as a signal of its inclusion in the national community, then Group B pushes back, arguing that too much respect for Group A contravenes the ideals on which Group B's belief system is premised, or that Group A is out of step with basic national political values (think, for example, of the claim that Islam is an affront to Western 'Judaeo-Christian' culture because it is allegedly incapable of respecting values like secular democracy or freedom of speech). The structure of the controversy encourages a dimorphic organisation of interests – a *pro* faction and an *anti* faction – but these blocs are often awkward conglomerations brought together by a partial ideological confluence rather than shared long-term aims. Case in point, the bulk of the opposition to trans law reform in the UK has come from two groups: on one side, anti-trans feminists like Joyce and Rowling, most of whom are secular or anti-religious; on the other, socially conservative Christians who are unsympathetic towards feminism on the whole, viewing it as out of step with biblical teachings on gender.[86] Indeed, 'Women's Groups' and

‘Religious or Belief Bodies’ were the two main assemblages noted to be against self-declaration reforms by the official analysis of the Scottish GRA consultation.[87] They hold two shared beliefs with regards to trans identity – that sex (and, by extension, gender identity) is fixed at birth and cannot be altered, and that loosening gender registration rules would damage other people’s rights, particularly those of cis women and faith communities.[88] This is not a totally unnatural alliance, but it only exists in its present form because the resurgence of trans law reform campaigns in the 2010s created sufficient panic in both groups to make strategic cooperation seem necessary, and that panic was in turn made possible by a perception that the recognition of more trans people is, in and of itself, a threat.

The GRA policy consultations of 2017–21 provided the spark for antitrans attitudes to spread rapidly in the mainstream. LGBTQI+ journalist V. S. Wells writes that the consultations ‘trigger[ed] a powder keg of transphobia’,[89] as the push for self-declaration was met by a tidal wave of indignation. The arguments against reform that proliferated in the media were (and are) often only tangentially related to the suggested changes, and sometimes, as with the claim that trans activists wanted to ‘shut down debate’, ‘silence’ critics, and destroy ‘freedom of speech’, the sinew between rhetoric and real-world policy was severed entirely, with GRA reform subsumed into a bigger ‘culture war’. In time, it was substantively forgotten except as a hollow signifier of one’s allegiances in that war.[90] As Luke Armitage writes, the issue of GRA reform was integrated in the 2010s into a ‘moral panic propagated through mainstream media’ in which the fear of change was (and still is) exploited to ‘give the panic urgency and to encourage a wider base of (cisgender) people to feel threatened by a group they had previously given little thought to’.[91] There was a simultaneous emotive bifurcation of pro-reform and anti-reform discourses on social media platforms, where interactions between different ‘sides’ tended to be ‘limited and mainly conflictual’, characterised by a ‘sense of threat and loss’ rather than legal specifics.[92] Amidst this outrage, socially conservative and ‘moderate’ commentators alike said that self-declaration would be a fatal blow to sanity, truth, and the coherence of the ‘real world’.[93] Melanie

McDonagh warned in the *Mail on Sunday* that GRA reform would give credence from on high to a ‘lie’ and a ‘legal fiction’,[94] while Trevor Phillips, a former president of the Equalities and Human Rights Commission, characterised support for self-declaration as a mark of ‘insanity’, a ‘dangerous’ distraction, and ‘a mockery of the struggle for equality’.[95] Others in the mainstream press opted for the catch-all word ‘madness’.[96]

GRA reform was demonised through a mixture of selective emphasis and non-specific gesturing at the implied deviancy of the trans community. A great deal of the populist outrage in the media centred on the case of Karen White, a trans woman and convicted sex offender who assaulted multiple cis women inmates after her transferral to a women’s prison in September 2017.[97] Populist outlets like the *Daily Mail* decried that prison authorities had ‘lost the plot’.[98] White does not possess a GRC and did not require one to be transferred, so the GRA is not directly relevant to the specifics of her case, but her actions were nonetheless cited as a major reason to resist the ‘transgender madness’ of self-declared gender.[99] In the *Times*, Janice Turner speculated that GRA reform would make it ‘easier for a trans prisoner to become legally male and thus have an almost automatic right to transfer’.[100] Declaring its opposition to self-declaration in 2018, the left-leaning *Guardian* reasoned that law ‘must not give violent or controlling male prisoners a new opportunity to dominate women by … transferring to a female prison’.[101] Affective concern for the future of women’s sport, a key theme in 2003–4, also made a return, with Oliver Brown of the *Telegraph* asserting that a new wave of trans competitors would leave cis women with ‘no chance of gold’,[102] although Laurel Hubbard, the New Zealand trans weightlifter who prompted Brown’s doom-saying, won no medals at the Tokyo 2020/21 Olympics, failing to complete a lift.[103] Polls finding that women were *more* likely than men to support self-declaration were noted in the press, but rarely gave pause to the predominant narrative of women being under attack and in need of protection.[104] The anti-trans movement latched onto this framing as its most effective weapon in the fight to stop GRA reform, pulling the discussion

into its favoured terrain by spotlighting the implied dangers posed by trans women. The non-recognition of trans people was imagined as a last line of defence against the corrosion of traditional understandings of sex and gender.

Perceived threats to the safety and developmental integrity of children also featured prominently as a reason to reject self-declaration. ‘Children were put at the centre of national debates and conflicts for gender recognition’, notes L. C. B. Cassal, despite the fact that most models for GRA reform under discussion at the time did not envision recognition being granted to the gender identities of children.[105] The point of contention was a fraught and, in the context, superfluous matter of epistemology: the very suggestion that trans minors *exist*. Luke Armitage explains:

> Trans children are constructed as not truly trans, but rather as exploited and misled by a trans ‘agenda’. Cisgender children are seen to be threatened by both trans children and adults, particularly within gendered spaces, and also by mere knowledge about trans people and identities.

An intense focus on such emotionally charged narratives, he continues, has aided the ‘recruitment of otherwise pro-equality individuals to the opposition of trans rights’.[106] The blowback against self-declaration was thus tightly associated with disdain for gender-affirming clinical care for minors, which, its loudest critics claimed, amounts to ‘state-sponsored child abuse’.[107] In a response to the 2021 UK consultation on banning conversion ‘therapy’, which is the practice of trying to change a person’s gender identity and/or sexual orientation to be cis and straight, feminist-aligned anti-trans groups argued that clinical care that does not directly challenge the identities of trans children is ‘itself a form of conversion therapy’, claiming that ‘gender ideology’ leads lesbian and gay children astray by telling them that they can only display non-gender-normative traits if they identify as trans or non-binary and opt to transition.[108] Gender conversion practices are thus laundered of their toxic associations and guised as progressive; all the while, reactionary Christian groups, the main

practitioners of both sexual orientation and gender identity conversion ‘therapies’, interpret all such bans as a threat to their ‘religious freedom’.[109]

At its most basic level, advocating conversion ‘therapy’ as a response to gay and trans identities rests on the assumptions that non-normative gender identities and sexual orientations *can* be intentionally changed under the right pressures, and that doing so is *beneficial* to the individual and/or society. Supporting conversion practices in the face of the significant body of evidence detailing their deleteriousness, including their propensity to increase depression and suicidality in the ‘patient’,[110] assumes that any negative effects are outweighed by a higher cause, or that they are just fabricated. While conversion ‘therapy’ is not a clear and present threat to most LGBTQI+ people in the UK at the time of writing,[111] a revival of conversion practices is arguably the logical conclusion to the axiomatic non-recognition of all trans people, for if being trans is corrosive to self, society, and truth itself, then for trans people to be ‘eliminated from public life entirely’, as called for by US Catholic conservative pundit Michael Knowles,[112] would seem to be a justified and proportional solution to the ‘problem’. And if there are no clear criteria by which one can be sorted into a ‘respectable’ elite of trans people who, conditional on good behaviour and political moderation, are given immunity from such demonisation, then even the ‘moderate’ version of this ideology implies an eliminatory trajectory.

The pushback against proposed bans on conversion ‘therapy’ coincided with an accelerating movement among anti-trans feminists to have the GRA abolished.[113] A petition was submitted to Parliament in 2022 demanding the repeal of the GRA on the grounds that it ‘makes it impossible in practice to keep biological men – who are statistically responsible for most violent crime – out of single sex spaces for women’, and because gender ‘is a subjective notion, properly categorised under Freedom of Belief, not as an objective characteristic like sex or age’. This appeal garnered 16,000 signatures – not a huge number in the context of online petitions – and received a negative response from the Tory government stating that the GRA is ‘effective’ and ‘has the right checks and balances’.[114] The repeal

movement has been endorsed by leading anti-trans organisations like Women's Declaration, which issued a statement claiming that the GRA 'is detrimental to the rights of women, is homophobic, and is part of a widespread dismantling of crucial safeguarding'.[115]

These developments expose the phenomenological collapse of the qualified (non-)recognition position into axiomatic non-recognition, with the former becoming little more than a euphemistic pretension of mature sobriety in the face of the 'mad' trans enemy. That anyone would bother maintaining so fragile an edifice is in itself a curiosity. Recent comments made by the likes of Helen Joyce and J. K. Rowling, the latter of whom seemingly denied that gender-nonconforming people were targeted by the Nazi regime in 1930s Germany,[116] could presage the abandonment of rhetorical temperance by the 'moderates' in favour of a blunter, transparently antagonistic style of communication that puts their eliminatory aspirations on full display. As politics shifts ever rightwards and grows more tolerant of explicitly violent rhetoric, there is no longer a need for the moderate disguise. Just as recognition-as-policy is spiritually animated as a quest for watershed moments of legitimisation that mark the 'progress' of a community towards general culture-wide acceptance, non-recognition-as-policy is about so much more than just denying reasonable adjustments to trans people. It means the absolute rejection of transness, in its profanity, as a valid mode of being, and the construction of a future free from its influence.

PULLING THE PLUG?

The meteoric rise of anti-trans activism and policies inevitably looms over discussions about the future of trans rights. The UK's decision to scrap its reform plans in 2020, coupled with the broader atmosphere of transphobic backlash in politics and the media, brought many people's latent frustrations with Mission Recognition out into the open. One prominent activist, Shon Faye, a former Trans Engagement Officer at Stonewall, concluded in her widely read book *The Transgender Issue: An Argument for Justice* (2021):

‘There can be no trans liberation under capitalism. This is a fact. … British trans people can no longer be enticed by crumbs of acceptance.’[117] The ‘no longer’ clause implies a historical narrative; that trans people *could* in days past be enticed by ‘crumbs of acceptance’, but that events forced them to reassess the prospectus for real change. The government’s decision to scuttle GRA reforms demonstrated to them that the upheaval of current legal paradigms is the only option. This narrative evokes the probing question asked by Christine Burns in her retelling of the 1993 Colloquy in Amsterdam: ‘Why empty the bath one cup at a time when you can just pull the plug out?’[118] Put another way, is it time to drop recognition and focus on something bigger? ‘Pulling the plug’ can mean many things, including, at one extreme, dismantling the capitalist-legalist framework that assigns so much importance to a person’s ‘official’ identity – in other words, revolution. More immediately, it can mean abolishing the legal status of sex and gender, a proposal that has been taken increasingly seriously by scholars and activists since the mid-2010s.[119] Flora Renz, for one, argues that while implementing self-declaration would bring ‘some people who are currently outside law’s legal gender regime within its boundaries’, this idea is ‘underpinned by the same normalising tendencies as other forms of legal gender recognition’.[120] Even a third gender in law would represent ‘the introduction of a new normative category for the purpose of assimilation of currently non-normative genders’.[121] Renz believes that a ‘negative marker’ such as an ‘X’ could ‘provide a “queerer” form of recognition’ by offering people ‘greater freedom to avoid categorisation for those perceived as existing outside the gender binary’, but this too can be ‘exclusionary and stigmatising if this is the only form of recognition available’.[122] The only real solution was thus gender abolition. Sofia Aboim also writes that third-gender markers institutionalise a sense of ‘legal thirdness’ while, in any case, *mis*-recognising the identities of many people by nonsensically lumping them together under an ‘X’ or ‘O’.[123] Valeria Venditti claims that ‘legal gender reform is haunted by a hypostatizing tendency that marks our current understanding of gender and limits the scope of any reform’, being ‘bound to reproduce a conservative system of recognition because they rely

on a substantialised conception of gender, within which gender is framed as a given entity'.[124] Meanwhile, Pieter Cannoot and Ariël Decoster assert that 'only a policy of abolishing mandatory (binary and/or non-binary) sex/gender registration would be truly respectful of the right to gender identity and the legal recognition thereof'.[125]

Some theorists go a step further and suggest that trans liberation requires not only the abolition of the state's role in regulating identities, but the end of recognition as a mechanism of gatekeeping social validation in everyday situations. Caterina Nirta, for one, argues that self-declaration 'would not resolve the pressing issue of equality' because it '*still* fundamentally relies on recognition, that is, on a dialectical … mechanism that is apt to protect and reproduce sameness (recognisable categories)'. The Hegelian paradigm of recognition is, Nirta says, 'structurally unable to account for the multiplicity of subjectivity, and does no justice to non-binary individuals who live at odds with institutional notions of gender'.[126] In its stead, Nirta advocates for a looser arrangement of 'self-recognition', 'self-affirmation', and 'self-differentiation' in which 'the subject [is] the only self in charge of its own recognition' and encourages 'collective participation' in the *affirmation* (but not in the *recognition*) of others.[127] It is not clear what policies Nirta envisions when she describes 'a legal system that encourages self-affirmation'.[128] Though framed by Nirta as a departure from Hegel, this decentralising proposition shares essential characteristics with Hegel's description of recognition as an intersubjective moment in *Phenomenology of Spirit*, and to a lesser extent with the wider nexus of recognition that creates the organic state in *Philosophy of Right*. More importantly, the intended *purpose* of recognition in trans activism is misconstrued in Nirta's argument. It is worth spending some time on this subject because understanding what recognition means, and has meant, to activists through the decades is key to understanding their intentions. Recognition is meant to fulfil a human need to feel accepted *by others*, and, perhaps more importantly, to belong to an entity greater than oneself. This purpose is lost if we subordinate the collective and shared notions of higher purpose to an intensely individualistic worldview wherein there is no

selfhood beyond the closed feedback loop of the in-gazing mind, no interactive component to self-perception or self-expression, no collaborative ethic of personhood, and no chance of finding elements of one's *who*, *what*, and *why* in an exterior setting, such as in the unpredictable refraction of self-image encountered in another person's view of oneself. We seek recognition from those around us because closed feedback loops are spiritually deadening, and because our identities always adopt, morph, or invert the contingencies of our society. Trans people's experiences of this process are very likely to involve unjustifiable knee-jerk invalidations, and they are often required to prove that they are who they say they are in ways that cis people are not, but this does not necessarily mean that *even more individualism* is the ticket to liberation. The essential problem that most of the activists discussed in this book have tried to rectify is that trans people are seldom allowed to participate in these social feedback systems under the presumption of good faith. They are accustomed to 'challenges' to their presented self – a simple 'no' rather than a collaborative search for betterment – and must always be on their guard should their sense of self and place be deliberately misconstrued for ideological reasons unrelated to their own circumstances. Put another way, the point at issue is not the existence of feedback systems in which self-perception interacts with and is shaped by many other determinants of identity, but the automatic *exclusion* of trans people from equal participation in those systems, with all the opportunities for growth, belonging, and deeper discovery that they can afford, and the proliferation of individualistic value structures in which the self, stripped of its basis in shared truths, stands alone against the ideologies of extermination, with resort only to the helpless insistence that 'this is who *I* say I am'. With all that said, the key question currently is whether the state should be lord over this whole process, not whether people in general should play a role in recognising and influencing each other's identities.

It is tempting to view the current moment in trans politics as a simple either-or choice between recognition *or* abolition. As Jessica Clarke writes, discussions of non-binary rights in particular 'are often stifled by the assumption that those rights must always take the form of gender neutrality

or, alternatively, that the law must always recognize a third gender'.[129] However, there is a developing appreciation among gender policy theorists that it is possible and perhaps even desirable to incorporate elements of both: i.e., to acknowledge the limitations of recognition while also imagining ways in which recognition might be structured so as to contribute to the gradual dissolution of legal gender as an operative concept in the governance of citizenship and society. In practice, as Clarke notes, this might entail activists pursuing state recognition for more diverse gender identities as a 'stopgap' on the way to abolition.[130] Indeed, a form of strategic hybridity might even be the *best* way to respect the rights of non-binary people, since, as Clarke reminds us, 'neither human lives nor legal options are binary'.[131] Messiness is human; humanity is messy. As an exercise in the deliberate convolution of supposedly sturdy concepts, trans political theory resists categorisation just as strongly as transness itself.

Recognition's potential might best be harnessed when it is tied to a plurality of tactics and objectives, as A. J. Wipfler believes. Wipfler is instinctively critical of recognition-only rights discourses, asserting that including trans people in updated legal structures may in fact 'harmfully reify sex classification', 'reinforce [the state's] hold over an aspect of identity that should belong only to the individual', and even 'further postpone the dethroning of gender as a fundamental organizing principle'.[132] However, he also warns that 'removing gender markers from all government-issued ID all at once would leave the most vulnerable trans people without proof of the legitimacy of their gender identity'. It follows that gender abolition *must* be a 'gradual' process if it is to 'reap [the] long-term benefits without sacrificing present safety'.[133] Moreover, there are ethical problems associated with skipping past recognition and charging straight for abolition if this does not represent the wishes of actual trans people. Referring to the 2015 WESC Transgender Equality inquiry, Wipfler senses 'a clear current preference among non-binary people in the United Kingdom toward expanded sex designation options, rather than the abolition of such designations'.[134] Anyway, argues Wipfler, recognition 'need not come at the expense of' abolition, as efforts to expand the

definitions of existing gender categories ‘can segue nicely into Abolitionist enterprises’.[135] He singles out birth certificates as a ‘good starting point’ for the phasing-out of gender markers.[136]

Policy-tethering (i.e., ‘no *x* without *y* and *z*’) permeates literature on trans law reform. The implication is that a given policy is only ‘good’ *if* it is implemented by the right people, in the right way, and with the right intentions. Lila Braunschweig is another gender abolitionist who cautions against a single-minded rush to the Holy Grail, warning that, in neoliberal hands, ‘abolishing gender registration’ could ‘reenact a norm of institutional gender-blindness, akin to “colorblindness” on issues of race’, preceding an absolute governmental divestment from equality. She thus believes that abolition must be integrated with ‘a broader claim for a renewed and feminist conception of neutrality, critically reconstructed as non-assignation’.[137] Sophie Wilkinson draws a provocative comparison with French racial disestablishment laws, noting that even the most ostensibly ‘egalitarian’ doctrines of legal ‘neutrality’ can in fact entrench inequalities by undermining the state’s role in mitigating the practical consequences of an unequal society. She concludes that to avoid such an outcome in the realm of gender registration, the abolition of legal gender must not rest upon a fiction of legal ‘blindness’, nor be ‘implemented without knowledge of a jurisdiction’s pre-existing cultural oppressions and social imbalances and should not remove the state’s engagement with inequality’.[138] Tomorrow’s law cannot forget today’s reality, and one cannot assume that deregulation automatically leads to a just equilibrium. As Renz puts it, decertification would work best if ‘other protections are in place’, including greater funding for relevant charities.[139]

The most influential expression of the position that removing gender from official documentation must be one part of a much bigger programme in the UK is perhaps the 2022 report of the Future of Legal Gender (FlaG) Project, based on research by academics at King’s College London, Loughborough University, and the University of Kent. The point of the project was to ask how the law might function under conditions where gender, though ‘decertified’ in legislation,[140] is still a functional concept in

case law, society, and culture. As the FlaG report explains, the overarching aim of decertification is to 'abolish a legal system of certification that treats sex and gender as legally assigned or registered qualities of individuals', but the report stresses that this need not render the state insensitive to the very real socio-economic permutations experienced by gendered individuals:

> Gender remains a legally important term for tackling social subordination, discrimination, violence, and other injustices, including through equality law. Legal use of the concept of gender can also encompass inequalities that relate to forms of embodiment associated with sex. The current grounds of 'sex' and 'gender reassignment' in the Equality Act 2010 would be merged to form the ground of 'gender' as a 'protected characteristic' for discrimination, harassment etc. and the public sector equality duty. Recognising gender as a 'ground' of inequality and discrimination, i.e. the basis on which inequality and discrimination take place, does not require individuals to be legally assigned to specific gender categories.[141]

Grounding anti-discrimination law in factors outside the 'official' sex/ gender of a person is not in and of itself a novel proposal. Franklin H. Romeo observed in a 2005 article that there is precedent in US case law to the effect that in cases involving sex- or gender-based discrimination, 'the perpetrator's perception of a gender nonconforming person' can often be more important than empirical information obtained through inquiries into 'the legitimacy of the complainant's gender identity or an examination of the complainant's body'. Put another way, what matters is whether the discrimination is motivated by a *belief* that the complainant possesses certain characteristics, not whether they 'actually' do or whether they identify in a certain way.[142] Definitional flexibility means that, through the courts, shifts in the legal locus of gender identity for the purposes of protection from discrimination can take place over many years. Hence, decertification is a good candidate for 'slow law', meaning it would not

necessarily happen all at once, nor depend on ‘a single piece of legislation’, but could instead be ‘introduced over time through a series of separate laws that gradually, together, make the compulsory registration of sex, and the assumption that people have a legal sex and gender, redundant’. In theory, this would grant more time to ensure that decertification forms ‘part of a broader social justice programme to support diverse ways of flourishing’ rather than being hijacked as ‘a neoliberal measure within a programme of governmental withdrawal from taking responsibility for countering social inequality’.[143] The FlaG project was explicit in rejecting ‘a libertarian policy of full disestablishment in which state law and state bodies would withdraw recognition of gender as a damaging structure of inequality’.[144] A FlaG-compliant decertification policy would therefore not rely on some invisible societal force militating for the fair treatment of trans people in a deregulated marketplace of human esteem.

FlaG has advanced the conversation on decertification considerably, but it is worth asking whether its predilection for policy tethering is realistic given that its preconditions for *good* decertification relate to governmental practices that are non-linear by design, such as the amount of funding given to NGOs or the level of government action against discrimination. What might the consequences be if, for example, gender decertification is implemented by a progressive government that is committed to equality and redistribution, only for a regressive party to gain power and reverse course economically? In these circumstances, the feared ‘libertarian’ version of decertification in which the state withdraws from its equality duties will have come about, rendering the intentions of the original government irrelevant. Are there any safeguards that might prevent decertification being diverted by neoliberalism or right-libertarianism at a later date? It is also worth asking whether FlaG and other advocates for decertification have their priorities ordered correctly. If decertification is only to be desired in a firmly justice-oriented and economically redistributive political climate, does that not suggest that these ancillary issues are in fact the primary means by which trans lives can be improved? If, for example, a government were to implement deep-cutting reforms that lift many trans people out of

housing insecurity, food insecurity, and health insecurity, would decertification still feel as urgent? By tethering their proposals to a feminist and economically progressive manifesto, advocates of decertification can sometimes appear to be obfuscating what the root cause of trans oppression actually *is*, which makes Shon Faye's words, cited at the beginning of this chapter, all the more significant: 'There can be no trans liberation under capitalism. This is a fact.' Whether or not one agrees with Faye's analysis, her comment helps put the recognition-versus-decertification debate into perspective, for while a policy of decertification would effectuate a more comprehensive alteration of administrative practices than a policy of expanded legal recognition, it still hinges on the assumption that bureaucratic fixes – ways of tinkering with what the state says or does not say about an individual – are of paramount importance. Placed in its historical context, then, decertification is an *evolution* of the politics of recognition, not an alternative.

On a related point, A. J. Wipfler suggests in his 2016 article on the abolition of legal gender that the present emphasis on what he calls the 'self-attestation' or 'Definitional Expansionism' approach to trans law reform 'may lead to unintended future costs if left permanently unevaluated'.[145] This could be taken to imply that the campaign for a looser system of gender recognition *has not* been critically evaluated until recently. Wipfler is referring in the first instance to the US context, but the history of trans rights advocacy in the UK suggests the opposite – that it has been evaluated constantly, urgently, and exhaustively by its opponents *and* proponents, both of whom, in different ways, have been anxiously cognisant of its limitations. From the soft-spoken pioneers of trans autobiography to the radical trans organisers in the Gay Liberation Front and the Transsexual Action Group; from the cis medical and legal scholars at the 1993 Amsterdam Colloquy to the intersectional trans feminist theorists of the decades following; from the leading campaigners in Press for Change to the outsiders and mavericks who forged their own path through the 1990s; from the spit-ballers and thought-experimenters of the Beaumont Society era to the professional activists of the Stonewall era,

advocates of recognition reform have always acknowledged the problems that come with cajoling the state into granting reprieve from the strictures of a gender binarist doctrine that the state itself enforces. The goal of abolishing legal gender has existed in some form or another as either an alternative approach or as a ‘next step’ throughout the period examined in this study. A great deal of time and energy has been expended evaluating its proper relationship with the goal of gender recognition in the short- and medium-terms. So, if ‘Definitional Expansionism’ has seldom given way to abolitionism as the defining paradigm of reform in UK trans politics, it is not because there has been too little evaluation of the former, but because any such evaluation *does not* lead inexorably to the belief that abolition or decertification is at odds with or better than recognition-based strategies. Well-meaning readers might disagree with this conclusion, but one ought not assume that those who reach it are insufficiently critical or introspective.

The policies for which trans and non-binary people express support in public polling and policy consultations sometimes depend less on their visions for an ideal future and more on their perceptions of what is ‘realistic’, or what ‘society’ seems to be ‘ready for’.[146] A policy being *desirable* is often less important than its being *saleable*. At the time of writing, the political environment in the UK is perhaps as inhospitable as it has ever been. The effort to reform the GRA to allow trans men and women to self-declare their identity, which is itself a tempered demand premised on the preservation of the binary shape of legal gender, ended in failure. Neither of the major UK-wide political parties is yet receptive to reviving Mission Recognition in legislation. Nor does any major party officially support decertification. The GRA in its original form had to contend with a spattering of barely organised opposing groups with no unified message, whereas the campaign to reform it came up against a formidable machinery of oppositional politics with an enormous organisational apparatus consisting of scores of celebrity-backed charities and lobby groups, a highly developed rhetorical toolbox, a vast reach via social media and most of the UK’s largest news outlets, and a lengthy list of powerful supporters in

nearly all mainstream political parties. A full-scale stab at decertification will face *at least* this much resistance. Probably more. Those with the power to enact decertification are clearly not 'ready', then. Whether society at large is prepared to contemplate such a departure from 'business as usual' is inordinately more difficult to determine.

Lofty ideological purism is all well and good – idealism can be a powerful tool for prefigurative policy development – but where opposition to recognition and other reforms leads to schisms and mistrust, it has the potential to warp one's perspective, foster cynicism, and cause one to cede legal and rhetorical ground to those whose singular interest is to lock trans people out of civic participation. It splinters an already small pool of people and can feed a misplaced distrust of anyone who is engaged in strategic dualism or who preaches pragmatism. Whatever the case, it would probably be incorrect to conclude that trans people will necessarily turn to more 'radical' or 'revolutionary' solutions as a consequence of recent events. Widely circulated trans manifestoes compiled in the aftermath of the disappointments of 2020 were still preoccupied with tweaks to current systems. The list of demands for a major trans rights protest in London on 6 August 2021 is typical, calling for better funding for gender identity care on the NHS, a ban on conversion 'therapy', new legal provisions for intersex people, and the introduction of statutory self-declaration.[147] While the anticipated implosion of the gendered *ancien r*égime continues to capture trans hopes and imaginations, there are still those who, like so many before them, believe in that hallowed dyadic formula: *Recognition now, revolution eventually*.

Conclusion

The singular urgency of the quest for recognition in UK trans activism is largely a product of the event that would constitute its founding myth; the first cataclysm – the 1970 *Corbett* v. *Corbett* ruling. The fact that Justice Ormrod felt it necessary to include in his summary the observation that UK law made no accounting for a 'change of sex' except where observational errors were made at childbirth would prove fateful, for this nod to the potential wider implications of the case ensured that it could be cited not only in relation to marriage, but also in relation to *any* administrative process in which the 'legal sex' of a person was of consequence. *Corbett*'s shadow was thus long and wide, but it was not wholly without light. Some trans people found that they could still navigate the administrative state with relative success, if not necessarily 'ease'. The symbolic significance of the case was arguably greater than its practical significance, as it bred a socio-political environment in which it was not redundant to question, as members of the Beaumont Society did in the 1970s: 'Are we legal?' The 'we' in that question is important. When the Beaumont Society was founded in 1966, there was no such thing as a 'trans community' per se, only a spattering of localised solidarities restricted to what would later be regarded as *sub*-communities of the trans whole – transvestites and transsexuals in particular. As the 1970s rolled into the 1980s, a bigger 'we' – *trans people* – came into view and served as the basis on which future activist initiatives would be founded: an imagined community, small but tangible, served by a growing number of organisations. And as political objectives were debated and a list of priorities formed, many actors concluded that the gateway to all else, the one change to make possible all the others, was official recognition. By such could be gained dignity, and through such could be gained access to a pre-existing set of provisions

pertaining to one's sex/gender, including gendered documentation, gendered pension schemes, marriage as a husband or wife, and statutory safeguards against discrimination.

This is the foundational promise made by the cluster of political demands and ideas that I have here called Mission Recognition – that the oppressive effects of the 'mis-recognition' of trans and other gender-nonconforming peoples by the law can be cancelled out or set right by *correct* recognition, much in the fashion imagined by Hegelian political theorists like Charles Taylor. Few advocates of trans recognition deny that pitfalls and drawbacks abound in this model of reform. It implies that ultimate ownership of who one is belongs to the state, and as such it could be seen to reify top-down systems of control while leaving unaddressed the political, economic, and cultural factors that contribute to the negative life experiences of many trans people. Still, it offers a direct path towards a type of liberation without requiring a thorough upheaval of capitalist or statist systems, an appealing immediacy that makes it feel like a worthwhile intermediary step even to some of the most convinced trans revolutionaries. When Mission Recognition hit mainstream political discourses in the 1990s, it formed one half of a common recipe for trans liberation, the other half being a steady attack on the pillars of the status quo. To a 'fourth-column revolutionary' like Christine Burns, this 'recognition' was about maximising trans dignity to the extent that prevailing systems allowed, while more transformational ideas like the abolition of legal gender were about reimagining systems and epistemes to maximise freedom at some indeterminate point in the future.

Necessitated by two decisions in the European Court of Human Rights in 2002 and presented by activists as an overdue humanitarian intervention for the good of a tiny community of 5,000 transsexuals, the Gender Recognition Act 2004 introduced a mechanism whereby *some* trans people – those who could extract a diagnosis of gender dysphoria and supporting letters from doctors – may be recognised as men or women 'for all legal purposes'. The diagnosis requirement was and remains a major limitation on the number of eligible applicants, although the lack of a requirement for

evidence of surgery or hormone treatment was innovative at the time. Other problems with the Act include the vague sports and religious exceptions, the lack of a non-binary option, the subversion of the Act's meaning by some Gender Recognition Panel members, and the need for applicants to annul their marriages (which in 2013 morphed into the 'spousal veto'). After just ten years, the Act was already beginning to look antiquated given the hundredfold growth in the estimated size of the trans population and the expanding list of jurisdictions in which more expansive or 'advanced' recognition processes were being established, like Nepal with its 'O' marker and Denmark with its self-declaration system. After the Marriage (Same Sex Couples) Act 2013, many LGBTQI+ advocacy groups like Stonewall and Scotland's Equality Network pivoted towards trans issues, and GRA reform became their new signature milestone. Despite promising early signs, this second phase in Mission Recognition ended in defeat, unravelling in slow motion between 2017 and 2023, with a coalition of anti-trans factions that had been gestating since the 1970s finding new purpose and vigour. The administrations of Boris Johnson and Rishi Sunak completed the long-signposted turnaround by scrapping UK GRA reforms in 2020 and then blocking Scottish GRA reforms in 2023. A sharp reduction in the GRC application charge was scant consolation. These events did not *create* the schisms between 'moderate' and 'radical' activists, but they did elevate the volume and visibility of the debates by forcing more trans people to reckon with questions of ideology, strategy, and goals. Many leading scholar-activists are now arguing that the solution is to abolish 'legal gender' entirely. Grave accusations of assimilationism and collaborationism are flying freely, but moderate/radical distinctions are both unhelpful and largely inaccurate when thinking about trans activism. To desire gradual change within present governmental paradigms *and* a total collapse of oppressive systems has proven not just possible, but standard. Those who fall only into one camp or the other are the outliers. When the dust settles from the reversals of 2020–25, we should not be surprised if the two-pronged strategies of days gone by enjoy a resurgence. The history explored in this book implores a healthy prudence – though not,

I would insist, a divisive dejection, still less an unfounded accusation that all who came before were unimaginative moderates. That is not true.

Nor is it true that trans recognition is the recently manufactured concern of a few ‘militant’ activists, as some anti-trans voices would have us believe. Recognition for trans identities was a remarkably consistent concern for both moderate and radical activists for the last half-century; indeed, individual trans people have been pursuing state recognition of their identities since at least the 1930s, when the likes of Michael Dillon and Robert Allen were considering their options for ‘re-registration’ under their preferred sex marker. The relative ease with which they had their birth certificates amended in 1944 is part of the reason that this was not a public political issue at the time: it did not need to be. After the *Corbett* v. *Corbett* ruling and other administrative, legal, and cultural setbacks in the 1970s and 1980s, a distinctive trans political consciousness found its stride, but this phenomenon had been gestating since the 1960s, when new communal organisations like Full Personality Expression in the US and the Beaumont Society in the UK were established. Out of this wellspring came trans activism as we know it.

That is to say, the movement for trans rights was on the rise when Spain and Portugal were still ruled by dictators, when Britain still had a significant coal industry, when a British person could still send a telegram, when nine in ten Britons identified as Christian, and when The Beatles were still active. It is about as old as radical feminism, the Christian Right, the electoral allegiance of the Southern US states with the Republican Party, decimalised British currency, home computers, humans in space, and scores of independent nation-states like Kenya, Nigeria, Cyprus, Singapore, Jamaica, and Malta – all of which we casually accept as embedded aspects of our world. And it is significantly *older* than the Russian Federation, the World Wide Web, commercially-available mobile phones, the Premier League, democracy in Chile and South Korea, human genome sequencing, the euro, and universal female suffrage in Switzerland. To admit any of these things to the pages of history while rejecting the historicity of the trans rights movement is an entirely arbitrary choice.

Epilogue
Trans rights in crisis

September 2025 – A lot has changed since the first draft of this book was completed in 2023. Trans liberty is facing a deep crisis on both sides of the Atlantic, buffeted by setbacks in the courts, an emboldened anti-trans crusade on the populist right, and a raging moral panic in the media and mainstream politics similar to that experienced by the gay community in the 1980s and 1990s.[1] What for so long had been a niche issue that few in frontline politics cared to touch is now one of the load-bearing pillars in reactionary populism, such that one's willingness to turn back the clock on trans law reform is a barometer of one's soundness as a 'conservative'. When Donald Trump returned to the White House as President of the United States on 20 January 2025, he made anti-trans policies a major part of his opening salvo. Among the twenty-six Executive Orders that awaited his signature on his first day was one titled 'Defending Women from Gender Ideology Extremism and Restoring Biological Truth to the Federal Government', a blunt-force instrument declaring it 'the policy of the United States to recognize two sexes, male and female', and demanding that 'government-issued identification documents … accurately reflect the holder's sex'. By 'sex', the administration meant 'an individual's immutable biological classification as either male or female', identified at birth and unchangeable throughout life.[2] As the federal cogs whirred into action, the US State Department issued a directive stating that US citizens would no longer be able to update the 'sex' field on their passports or choose an 'X' option.[3] Subsequent actions banned federal funding for programmes that either finance gender-affirming medical care or permit trans women/girls to participate in women's/ girls' sports.[4] These orders –

and their inclusion in Trump 2.0's opening act – caught worldwide attention, but they are only one part of the global ascension in anti-LGBTQI+ policies.[5] In Argentina, President Javier Milei issued a decree banning gender-affirming care for under-18s in February 2025,[6] and in Hungary, the legislature passed a ban on public Pride events in March, with President Viktor Orbán's support.[7]

Then came the ruling of the UK Supreme Court in *For Women Scotland Ltd* v. *The Scottish Ministers* (*FWS* v. *TSM*) in April 2025. The Scottish Parliament passed the Gender Representation on Public Boards (Scotland) Act in 2018, aiming to ensure that women make up at least 50% of the membership of certain public bodies. Section 2 of the Act stipulated that the word 'woman' in this context:

> includes a person who has the protected characteristic of gender reassignment (within the meaning of section 7 of the Equality Act 2010) if, and only if, the person is living as a woman and is proposing to undergo, is undergoing or has undergone a process (or part of a process) for the purpose of becoming female.[8]

After a legal challenge by For Women Scotland (FWS) on this definition was initially unsuccessful, the Second Division of the Inner House of the Court of Session ruled on appeal that Section 2 impinged on the reserved matter 'equal opportunities', over which the UK retains primary control under the devolution arrangement. The Scottish Government removed the definition in Section 2, and then published updated statutory guidance in April 2022 explaining that the word 'woman' was now to be understood in accordance with Section 11 and Section 212(1) of the Equality Act, and, where applicable, Section 9(1) of the GRA, which states that 'where a full gender recognition certificate has been issued to a person that their acquired gender is female, the person's sex is that of a woman', and vice versa. The Scottish Government therefore hoped to include at least some trans women within the equal representation provisions of the 2018 Act despite the negative ruling.

An additional challenge by FWS disputing the legality of this guidance was dismissed by the Outer House of the Court of Session in December 2022,[9] but the case eventually proceeded to the Supreme Court of the United Kingdom. In addition to the evidence from FWS and the Scottish Government, the court also received secondary interventions from the Equality and Human Rights Commission, Sex Matters, the LGB Alliance, Scottish Lesbians, the Lesbian Project, and (in support of the Scottish Government's position) Amnesty International, though it did not hear directly from a single trans person. Victoria McCloud, the first trans judge in the UK, alleges that the court 'refused permission for her to intervene on how the issues would affect herself and other trans people'.[10] In April 2025, the Supreme Court ruled in favour of FWS. It said:

> a trans man with a GRC (a biological female but legally male for those purposes to which section 9(1) of the GRA 2004 applies) is a woman for the purposes of section 11 [of the Equality Act 2010] and a trans woman with a GRC (biologically male but legally female for those purposes to which section 9(1) applies), is a man and not entitled to be treated as a woman under the EA 2010.[11]

The core value judgement in the ruling is the presumption that simple and stable definitions are necessarily superior to flexible and context-specific definitions, because: 'By its nature a variable definition is neither clear, constant nor predictable. It is the opposite in fact.'[12] Paragraph 152 states that for *sex* to be workable as a protected characteristic, 'it must be possible for [it] to be interpreted in a way that is predictable, workable and capable of being consistently understood and applied in practice by this wide range of duty-bearers'.[13] Further, as the sex provisions of the Equality Act are allegedly 'rendered incoherent or unworkable' by the application of Section 9(1) of the GRA, the court found that *sex* in the Equality Act 'must mean biological sex notwithstanding that there is no reference to biological sex in this provision'.[14] It is thus very explicitly a ruling based on inference.

As soon as the ruling was published, organisations on both sides of the divide began the work of contextualising it within their preferred historical narratives. There was general agreement across the board, from Stonewall to the Christian Institute, that whatever its implications, this was indeed a 'landmark' ruling, the effects of which will reverberate for decades.[15] One of the more interesting attempts at historicisation came from the group Sex Matters, which presented the ruling as just the latest confirmation of a singular legal truth established in *Corbett* v. *Corbett* in 1970, as the 'underlying meaning of biological sex in law [has been] settled' since then.[16] This claim deserves closer scrutiny, for while it is true that both the 1970 and 2025 rulings envision sex as a binary system of biological classification, they are quite distinct in their philosophical and practical details. In legislative terms, they do not overlap at all. One case was about now-superseded marriage laws, and the other concerned statutory instructions relating to the Equality Act, which did not exist when the former case was litigated. Relatedly, both rulings specify that they are not intended to resolve the semantic or legal meaning of 'sex' in all domains: in *Corbett*, Justice Roger Ormrod stipulated that he was 'not concerned to determine the "legal sex" of the respondent at large';[17] and in *FWS* v. *TSM*, the Supreme Court noted in Paragraph 2:

> It is not the role of the court to adjudicate on the arguments in the public domain on the meaning of gender or sex, nor is it to define the meaning of the word "woman" other than when it is used in the provisions of the [Equality Act] 2010.[18]

In short, neither ruling was intended as a universal statement of truth. There is no single definition of 'sex' in UK law, and there never has been. Even Ormrod left the door open for domain-dependant definitions, although his summary hinted at a conception of sex as a cumulative classification determined by a patchwork of chromosomal, gonadal, genital, psychological, and hormonal factors, all of which contribute to a 'biological sexual constitution' that is 'fixed at birth (at the latest), and cannot be

changed'.[19] Notwithstanding his assertions to the contrary, Ormrod did therefore attempt to capture a more or less stable notion of sex that could, when extrapolated, serve as a touchstone across legal domains. In April 2025, the Supreme Court attempted no such thing, referring repeatedly to 'biological sex', but never explaining what this means,[20] the intended interpretation of the words 'woman' and 'man' in the Equality Act being, so it claims, 'manifestly obvious'.[21]

The way that protected characteristics work in the Equality Act is also relevant here, as the court stresses that the characteristic *sex can* be applicable if a perpetrator *perceives* an individual to be of a particular sex, regardless of their 'biological' status or their possession or lack of a Gender Recognition Certificate.[22] For instance, if a trans woman experiences discrimination because someone *thinks* they are a woman, then the functional definition of *woman* in this instance rests on whatever unspoken criteria the perpetrator employed to make that determination. The same applies to the protected characteristic *gender reassignment*. This arrangement does not amount to equality of status between cis and trans women, but it is an explicit acknowledgement of the fact that, in real life, one's treatment by others is not determined solely by the applicability or otherwise of a technical definition. In most scenarios, nobody really *knows* whether you have this or that combination of chromosomes or whether you have, or once had, the capacity to produce large or small gametes. An Equality Act that protects people only if they can produce medical evidence of belonging to the targeted group would be toothless, ineffectual, and cruel. Further, the Supreme Court rejected For Women Scotland's argument that Section 9(1) of the GRA is 'now spent because the problems encountered by trans men and trans women that the legislation was designed to remove have all been removed by other legislation', countering that the GRA:

> continues to have relevance and importance in providing for legal recognition of the rights of transgender people … [as well as] their personal autonomy and dignity and [in] avoiding unacceptable

> discordance in their sense of identity as a transgender person living in an acquired gender.[23]

This ruling cannot, then, be seen as a simple reprisal of *Corbett* because it is qualitatively far removed from the context and content of that case. It is better viewed as the beginning of a *new* orthodoxy in case law which, in spite of its apparent conceptual simplicity, still treats the law around sex and gender as a complex and multi-layered network of domain-dependant definitions.

The ruling often alludes to the assumed intention behind the wording of the GRA and Equality Act, arguing, for example, that while the word 'biological' is absent from the Equality Act's definitions of *man* and *woman*, 'the ordinary meaning of those plain and unambiguous words' implies binary biological criteria.[24] After the ruling was released, Melanie Field, one of the civil servants responsible for drafting and passing the Equality Bill in 2010, said that 'the clear premise' of the legislation was to include trans people with GRCs within the Act's definitions of *man* and *woman*,[25] but without any substantial input from drafters (or from trans people), the court ended up relying far too heavily on the narrative fed to it by anti-trans groups. Paragraph 35 gives a good sense of the direction of the court's ear:

> We are particularly grateful to Ben Cooper KC for his written and oral submissions on behalf of Sex Matters, which gave focus and structure to the argument that 'sex', 'man' and 'woman' should be given a biological meaning, and who was able effectively to address the questions posed by members of the court in the hour he had to make his submissions.[26]

Other than FWS, anti-trans groups like Sex Matters were by far the mostcited source of information, often introduced with such vague terminology (e.g., 'Research referred to by Sex Matters' and 'Evidence referred to by the second interveners')[27] that the nature of the 'evidence'

and its applicability is not immediately apparent. The data-gathering seems to have been severely one-sided, and the outcome all but inevitable.

* * *

Reversals like these speak to several themes that have defined this book. First, they provide a timely reminder that ‘progress’ is not a one-way street, as many trans people in post-*Corbett* Britain knew intuitively. *Everything* can be reversed by a sufficiently determined opposition. Second, they show that trans people, or any minority group for that matter, cannot necessarily rely on mainstream ‘progressive’ parties to have their backs. The Democratic Party has made no meaningful effort to disrupt Trump’s anti-trans agenda, nor is there a clear electoral pathway to restoring the rights that trans people have lost. The UK’s Labour Party is arguably even less reliable on this issue. Third, they demonstrate, if it needed any more confirmation, that anti-trans policies usually harm the most vulnerable and least privileged trans people first: refugees, the incarcerated, those who cannot afford high-end legal advice or representation, those who do not ‘pass’, those who must present identity documents most often due to factors like migrant status, over-policing, and financial instability – these are the people who will feel the inflexibility of the state most viscerally. Legal recognition is not and has never been exclusively an issue for well-off trans people with naught else to worry about. When functioning at their best, predictable and robust recognition policies set statutory baselines that guarantee a certain level of dignity and security regardless of one’s social standing or income, while their absence guarantees nothing but persistent indignity and insecurity.

The days when trans people in Britain could focus on positive changes safe in the presumption that their progress so far is secure are long gone, at least for now. The main challenge at this time is to prevent as much legislative and regulatory backsliding as possible, a task that requires familiarity with the main vulnerabilities in the law as it stands. Among these, it must be said out loud that the Gender Recognition Act is now at

mortal risk from two possible angles: a new law repealing it entirely, or a concerted effort at sabotage that renders it inoperable. The Supreme Court ruling in April 2025 took a long stride towards the second eventuality, but the first cannot be ruled out given the momentum currently enjoyed by anti-trans ideologies. As we saw in Chapter 4, anti-trans factions are moving away from supporting trans recognition in principle while opposing self-declaration – the 'moderate' or 'qualified' position popularised in the 2010s – and are getting bolder in demanding outright repeal of the GRA. A new petition for repeal was created in February 2025 and garnered over 13,000 signatures in under a month. When the Labour Government responded on 10 March, it dismissed the demand and said that it was 'proud' of the GRA because it 'enables trans people to live, work and die in their acquired gender, ensuring that trans people can live with dignity and respect',[28] but this is unlikely to be the end of the matter. There will be more attempts in the near future, although it is not clear that a majority of MPs could ever be convinced to back GRA abolition.

Sabotage seems the more imminent threat. If anyone were to attempt this, there are several weak points in the law that they could conceivably attack. To function, the GRA requires that potential applicants can get access to medical specialists with the authority to issue a diagnosis of gender dysphoria, and it then requires that applicants can (a) afford the administrative fee, and (b) convince the legal and medical members of the Gender Recognition Panel that their case is valid. Should an applicant be successful and receive a full GRC, their progress in changing their other documents depends on the compliance of private organisations and government agencies like the Passport Office. In the case of sports and faith groups, exception clauses already exist allowing for the exclusion of trans people in the interest of 'fair competition' or religious freedom. Some migrants and people with dual citizenship can access a fast track if they are recognised by a state on the Approved Countries and Territories list. Readers may have already identified multiple points of failure, but I will spell some of them out: (1) A government or court could greatly reduce the availability of gender-related healthcare, either by defunding NHS

programmes or through separate laws or rulings banning certain types of care. If a trans person cannot get a diagnosis of dysphoria, the GRA becomes redundant. (2) The cost of the application fee, currently £5, could be set unreasonably high. (3) The Gender Recognition Panel could be packed with obstructionist members by a Lord Chancellor. (4) A government or court could slow the compliance of state agencies with requests for new documents from GRC holders. (5) A government or court could apply an arbitrary interpretation of the religion and belief exceptions to cover essentially all anti-trans beliefs, actions, and policies, regardless of circumstance or reason. (6) The Approved Countries and Territories register could be reduced or totally emptied. Any one of these actions could open the floodgates to a tidal wave of anti-trans policies, so while most trans people would not feel the loss of the GRA directly because they are already excluded by its criteria, *all* of them would feel the effects of the sanctioned free-for-all on protections that it might signal. It is worth defending, both for its value to current and potential GRC holders and for its significance as a symbol of acceptance.

Beyond the GRA itself, the legal infrastructure that made it possible is also under attack. Nigel Farage, leader of Reform UK, has called for a referendum on the UK leaving the European Convention on Human Rights, the treaty that trans litigants leveraged to force the UK to enact the GRA.[29] Kemi Badenoch, the Tory leader at the time of writing, has said that the UK would 'probably have to leave' the European Convention on Human Rights were it to impede the 'national interest',[30] and has threatened to 'disengage' from other pillars of international law like the International Criminal Court.[31] Following the 2025 Supreme Court decision, some trans people again turned to the European Court of Human Rights for relief, with Victoria McCloud and her representatives – non-binary barrister Oscar Davies and Black trans lawyer Olivia Campbell-Cavendish – launching a legal challenge to overturn the ruling,[32] but there is a danger that success in the ECtHR could provide the spark for a more concerted and determined populist campaign for ECHR withdrawal, no doubt fuelled by claims that the UK's ability to maintain legal sanity is being violated by 'woke' foreign

judges. This is an aspect of the Eurosceptic agenda that was left unfinished when the UK left the European Union in 2020, and it would severely undermine the capability of minority groups to resist injustices. Of course, that's the point: to peel back checks and balances that get in the way of naked attacks on migrants, Muslims, disabled people, benefit claimants, and anyone else whose very existence offends the nationalist-puritanical project. Nobody can breathe easy until this misanthropic miasma is cleared.

If *Corbett* v. *Corbett* was the founding cataclysm for the generations of trans people who lived in its wake, then *this moment*, whatever it should be called, is our very own cataclysm. The damage that is being done right now to trans lives – all the restrictions on healthcare, all the rollbacks of rights, all the parent–child relationships destroyed by the non-stop supply of anti-trans odium in the media, all the conscious lies told to create moral panic, all the limitations placed on trans people's participation in civil society, and all the physical violence bubbling to the surface – will leave deep scars that will be with us for many decades.

I would like to be able to close on some cosy platitude like 'We'll make it through this', but the insufferable truth is that not everyone *will* make it. Some already haven't. What I *can* say is that this is not our first rodeo. Because of the legacy left by the activists of decades past, we have many critical resources that they lacked, including a matured advocacy infrastructure, a long list of relatively prominent allies in frontline politics, a comparatively robust suite of legal protections, close relationships with other activist movements internationally, and a far larger community of 'out and proud' trans people, all of which means that, unlike those who came before, we won't have to start from zero. That, at least, is a blessing.

Notes

INTRODUCTION

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CHAPTER 1

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CHAPTER 2

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